Am. B. 3040
(267 i
1 3

Proceedings

Am. B. 3040
(267.1.3

Proceedings

THE MISCELLANEOUS DOCUMENTS

PRINTED BY ORDER OF

THE HOUSE OF REPRESENTATIVES

DURING THE

SECOND SESSION OF THE FORTY-SECOND CONGRESS.

1871-'72.

IN FOUR VOLUMES.

Volume 1....No. 1 to No. 33, inclusive.
Volume 2....No. 34 to No. 110, inclusive.
Volume 3....No. 111 to No. 200, inclusive.
Volume 4....No. 201 to No. 229, inclusive.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1872.

BIBLIOTHECA
REGIA
MONACENSIS

INDEX

TO

THE MISCELLANEOUS DOCUMENTS

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

SECOND SESSION OF THE FORTY-SECOND CONGRESS.

Title.	Vol.	No.
A.		
Agricultural and Mechanical College, communication from the governor of Alabama, transmitting a report relative to the establishment of the, in that State	4	212
Alabama, relating to the contested-election case of Norris *vs.* Handley, third district of	1	15
Alabama, additional record evidence in the above case.....part 2.	1	15
Alabama, petition of the Saint Paul's (Episcopal) church of Selma, in the State of, for relief	1	33
Alabama, memorial of the legislature of, for a grant of lands for railroad purposes	2	54
Alabama, memorial of the legislature of, asking a land grant in aid of the Warrior and Tennessee River Railroad	2	89
Alabama, memorial of the legislature of, asking a grant of land in aid of the Mobile and Northwestern Railroad	2	90
Alabama, memorial of the legislature of, asking land in aid of a railroad from Decatur to Aberdeen, Mississippi	2	91
Alabama, memorial of the legislature of, asking postal facilities on the routes of the Alabama and Tombigbee Rivers	2	106
Alabama, memorial of the legislature of, relating to ship communication between the waters of the Gulf of Mexico and the Atlantic Ocean	2	110
Alabama, communication from the governor of, transmitting a report concerning the establishment of the Alabama Agricultural and Mechanical College	4	212
Alabama claims, resolution offered in the House by Mr. Peters on the subject of indirect damages in the settlement of the	3	180
American Printing-House for the Blind, resolution of the legislature of Pennsylvania relative to granting aid to the	3	171
American Sharpshooters' Society, letter from the secretary of the, of Illinois	2	84
Anderson, William H. H., papers relating to the pension claim of	3	127
Architect of the Capitol, transmitting inventory of the public property in and about the Capitol, President's House, and Botanic Gardens, letter from the	1	20
Arizona, resolution of the legislature of California relative to Indian affairs in	3	161
Arkansas, papers in the contested-election case of Boles *vs.* Edwards	1	22
Arkansas, petition of John Edwards, asking time to take testimony in the contested-election case of Boles *vs.* Edwards	1	24
Arms, resolution of the legislature of California relative to, issued by the United States to the State of California	2	93
Arms, resolution of the legislature of West Virginia, requesting her quota of	3	119

Title.	Vol.	No.
Arms, statement from the Ordnance Department relating to the manufacture and issue of, for the militia	3	191
Asylum, memorial of the legislature of Wisconsin for authority to the board of managers of the National Asylum for Disabled Soldiers to transfer a parcel of ground to the State of Wisconsin for the purposes of a Soldiers' Orphan	3	177
Asylum, report of the board of managers of the National, for the year 1871	4	226
Atchison, Topeka, and Santa Fé Railroad Company, resolution of the legislature of Kansas concerning the	2	83
Attorney-General, relative to a change of the time for making report to Congress, letter from the	3	126
Attorney-General, transmitting exhibit of expenditure of judiciary fund, letter from the	3	140
B.		
Banks, national, petition of citizens of New York, asking for the establishment of the Workingmen's Co-operative Colonization National Bank of America	3	167
Banks, national, letter from the Secretary of the Treasury, relating to securities for deposits in	2	38
Banks, national, testimony taken by the Committee on Banking and Currency relative to failures of	3	153
Banks, national, letter from the treasurer of the National Savings Bank of the District of Columbia, transmitting report of the funds and investments from its organization to December 31, 1871	4	223
Bankrupt law, memorial of the legislature of Wisconsin for a repeal of the	3	117
Bertschy, John, memorial of, relating to lands to be reclaimed in Sheboygan County, Wisconsin	3	141
Bertinette, Madame Eugenia, additional report of the commissioners of claims relative to the claim of	1	21
Black and Company, memorial for relief of, as contractors for improving the Louisville and Portland Canal	1	31
Blind, resolution of the legislature of Pennsylvania relative to granting aid to the American Printing-House and University for the	3	171
Blind, resolutions of the legislature of New York in favor of an appropriation in aid of the American Printing-House for the	4	225
Boles *vs.* Edwards, third district of Arkansas, papers in the contested-election case of	1	22
Boles *vs.* Edwards, petition, asking time to take testimony on the part of John Edwards	1	24
Boudinot, Elias C., memorial of, for relief against certain proceedings under the internal-revenue laws	1	9
Bowen *vs.* DeLarge, papers and testimony in the contested-election case of	2	37
Breakwater, resolution of the legislature of California for a sea-wall or, at Trinidad Harbor	3	143
Burleigh *vs.* Armstrong, papers and testimony in contested-election case of	2	47
C.		
California, resolution of the legislature of, relative to arms issued by the United States to the State of	2	93
California, resolution of the legislature of, relative to a weekly mail	2	94
California, resolution of the legislature of, urging the necessity of abolishing the duty on quicksilver	2	100
California, resolutions of the legislature of, relative to Chinese immigration	3	120
California, resolution of the legislature of, for a mail-route from Red Bluff to Shasta City	3	121
California, resolution of the legislature of, for a mail-route from Red Bluff to Yreka	3	122
California, resolution of the legislature of, relative to a port of entry at San Diego	3	135
California, resolution of the legislature of, for a sea-wall or breakwater at Trinidad Harbor	3	143

Title.	Vol.	No.
California, resolutions of the legislature of, for donation of public lands for school purposes	3	144
California, resolution of the legislature of, requesting that the weight of silver coins be raised to the standard of 1850	3	146
California, resolution of the legislature of, praying that if the Placerville Railroad is not constructed by 1873, the lands granted in favor thereof be declared forfeited	3	148
California, resolutions of the legislature of, relative to Indian affairs in Arizona	3	161
Calvert, William P., relative to a pension, papers in the case of	2	40
Campbell, Lewis D., petition of W. H. Blair and other electors of the third congressional district of Ohio, asking leave to take testimony in the contest of the seat of	2	66
Campbell, Lewis D., answer to the petition of electors of the third congressional district of Ohio, asking leave to take testimony in the contest of the seat of part 2.	2	66
Canal, memorial of Black and Company for relief as contractors for the improvement of the Louisville and Portland	1	31
Carter, H. W., et al., resolutions of the legislature of South Carolina, praying for relief of, from political disabilities	2	49
Chicago, letter from the Saint Louis Board of Trade relative to the bill relating to the admission of certain articles free of duty for the benefit of	2	60
Chicago, resolution of the legislature of Michigan relative to the bill for relief of	3	145
Chief of Engineers, relative to water communication between the James and Ohio Rivers, letter from the	2	88
Chinese indemnity fund, memorial and draught of a bill from the committee of citizens of New York relative to the	2	70
Chinese immigration, resolutions of the legislature of California relative to	3	120
Choctaw and Chickasaw nations, petition of the freedmen of the, for relief	2	46
Church and school building, memorial on the subject of a, in Santa Fé, New Mexico	3	178
Civil rights, resolution of the legislature of Louisiana, asking the passage of the supplementary civil rights bill	2	104
Civil service, resolutions offered in the House by Hon. A. F. Perry on the subject of the	2	77
Claims, first general report of the commissioners of	1	16
Claims, additional report of the commissioners of, upon the claim of Madame Eugenia Bertinette	1	21
Claims, papers relating to the, of the State of Kansas	2	36
Claims, petition of Mrs. Martha G. Vaughn and Mrs. Louisa Jackman, with other papers relating to their claim	2	71
Claims, resolutions of the legislature of Kansas for relief of certain claimants for losses sustained in the years 1855 and 1856	2	87
Clark, W. T., certificate of election of, third district of Texas	1	4
Clerk of the House of Representatives, transmitting inventory of public property in his charge, letter from the	1	6
Clerk of the House of Representatives, transmitting his annual report of the contingent expenses of the House of Representatives, letter from the	1	7
Clerk of the House of Representatives, transmitting a list of clerks and other persons employed in his department, letter from the	1	28
Coins, resolution of the legislature of California in favor of raising the weight of silver, to the standard of 1850	3	146
Colonization National Bank, petition of citizens of New York, asking for the establishment of the Workingmen's Co-operative, of America	3	168
Colorado, memorial of the legislature of, relative to a State government for the Territory of	2	76
Colorado, memorial of the legislature of, relative to capitol buildings in	3	123
Colorado, memorial of the legislature of, for a wagon-road to White River Indian agency	3	124
Colorado, letter from the Secretary of the Smithsonian Institution, transmitting preliminary report for continuing the survey of the, of the West by Professor Powell	3	173

Title.	Vol.	No.
Commerce, resolution of the select and common council of the city of Philadelphia relative to, on the Schuylkill River	3	128
Commercial agent, letter from the Secretary of State relative to the compensation of the, at Belize, British Honduras	3	129
Commissioner of the General Land-Office, giving information as to the cost and sales of public lands, letter from the	3	167
Commissioner of Public Buildings and Grounds, submitting statement of the condition of the Government property in and arround Washington, letter from the	4	224
Commissioners of claims, first general report of the	1	16
Commissioners of claims, additional report of the, upon the claim of Madame Eugenia Bertinette	1	21
Commissioners of claims, letter from the, transmitting their report in the case of the claim (No. 27) of Waddy Thompson	4	213
Commissioners of claims, relative to the claim (No. 9842) of Maria M. Dickens, Eloise C. Dickens, and Amelia J. Dickens, of Washington, D. C., letter from the	4	218
Committees, list of the standing and select, of the House of Representatives, second session Forty-second Congress	1	3
Congress, list of the members of the House of Representatives for the Forty-second Congress	1	2
Congress, list of reports to be made by public officers to the second session Forty-second Congress	1	1
Contingent expenses, letter from the Clerk of the House of Representatives, transmitting his annual report of, of the House of Representatives	1	7
Cotton, resolution of the legislature of Tennessee in favor of an act refunding the tax paid upon, in the years 1866 and 1867	1	18
Cotton, resolution of the legislature of Virginia relative to refunding the tax on raw	2	95
Cotton, memorial of the legislature of Georgia, relative to refunding the tax on	2	103
Cotton, resolutions of the legislature of Kentucky, for the refunding of the tax on	3	136
Cox, Doctor Christopher C., memorial of, relative to the establishment of a bureau of sanitary science	4	229
Crymes, Thomas, asking for the removal of political disabilities	2	92
Cuba, resolution by Mr. Randall relative to the case of Doctor J. E. Houard, an American citizen imprisoned in	3	174
Cuba, resolution reported by Mr. Banks from the Committee on Foreign Affairs relative to the case of Doctor J. E. Houard, an American citizen imprisoned in Cuba	3	185
Cundurango, letter from the Secretary of State, transmitting correspondence with the minister of the United States at Ecuador, relative to	2	65
Currency, resolutions of the National Board of Trade relative to the restoration of the specie standard by a contraction of the	2	39
Customs revenue, memorial of the National Reform Association relative to corrections and modifications of the laws relating to the collection of	2	68
D.		
Dakota, contested-election case of Burleigh *vs.* Armstrong	2	47
Dakota, memorial of the legislature of, asking for a new Territory out of the northern portion of	2	56
Dakota, testimony of S. L. Spink in the contested-election case of Spink and Burleigh against M. K. Armstrong	2	75
Deficiencies, estimate of, for service of War Department for present fiscal year	2	52
Dickens, Maria M., Eloise C., and Amelia J., letter from the commissioners of claims relative to the claim of	4	218
Diplomatic and consular officers, letter from the Secretary of State relative to the acceptance of testimonials by, from the Emperor of Germany	3	189
Disabilities, resolutions of the legislature of South Carolina for relief of H. W. Carter et al. from political	2	49
Disabilities, resolution of the legislature of West Virginia relative to the removal of political	2	79

Title.	Vol.	No.
Disabilities, resolution of the legislature of South Carolina, asking for removal of political, of Thomas Crymes	2	92
Disabilities, resolutions of the constitutional convention of West Virginia, recommending that all political, shall cease in that State	3	179
District of Columbia, letter from the secretary of the, transmitting laws passed by the legislative assembly of the	1	27
District of Columbia, petition of Charles A. Weidner for relief for work done on the jail of the	2	45
District of Columbia, letter from the Reverend J. W. Green, asking that certain charges which he makes may be inquired into, relating to the	2	58
District of Columbia, letter from the treasurer of the National Savings Bank of the, transmitting report of the funds and investments from its organization to December 31, 1871	4	223
E.		
Elections, contested, papers and testimony relating to the case of Bowen *vs.* DeLarge, second district of South Carolina	2	37
Elections, contested, papers in the case of Niblack *vs.* Walls, Florida	2	34
Elections, contested, additional papers in the case of Niblack *vs.* Walls, Florida part 2	2	34
Elections, contested, Burleigh *vs.* Armstrong, Dakota	2	47
Elections, contested, McKissick *vs.* Wallace, papers in case of	2	48
Elections, contested, petition of electors of the third congressional district of Ohio, asking leave to take testimony in the contest of the seat of Lewis D. Campbell	2	66
Elections, contested, answer of Lewis D. Campbell to the above petition part 2	2	66
Elections, contested, testimony of S. S. Spink in the case of Spink and Burleigh against M. K. Armstrong, Dakota	2	75
Elections, contested, Giddings *vs.* Clark, papers in contested case of, third district of Texas	3	163
Elections, contested, Whitmore *vs.* Herndon, papers in the case of, first district of Texas	3	182
F.		
Failures of national banks, testimony taken by the Committee on Banking and Currency relative to	3	153
Fenian invasion, letter from the Secretary of State relative to a joint resolution referred to the Committee on Foreign Affairs, stating that no persons are now imprisoned in Canada for complicity in the, of 1866	4	227
Fisheries, resolution of the legislature of Massachusetts relative to fishing interests	2	64
Fisheries, memorial of the Boston committee on, relative to the American, as affected by the treaty of Washington	2	69
Fisheries, resolutions of the legislature of Maine relative to the fishing interests in that State	2	101
Florida, papers relative to the contested-election case of Niblack *vs.* Walls.	2	34
Florida, additional papers in the contested-election case of Niblack *vs.* Walls part 2.	2	34
Fort Ripley, resolution of the legislature of Minnesota, asking for the vacation of a certain portion of the military reservation at	2	97
Freedmen, petition of the, of the Choctaw and Chickasaw nations for relief	2	46
G.		
Georgia, memorial of the legislature of the State of, relative to water communication between the Atlantic and the Mississippi	2	41
Georgia, resolutions of the legislature of, relative to the repeal of the duty on rice	2	67
Georgia, memorial of the legislature of, relative to refunding the tax on cotton	2	103
Georgia, memorial of the governor of, praying for payment of money due to said State for use of the Western and Atlantic Railroad	4	209

Title.	Vol.	No.
German "mark," letter from the Secretary of State, inclosing translation of a note from Mr. Schlözer, the German minister, relative to the rate of exchange in the United States of the new	4	216
Giddings *vs.* Clark, papers in the contested-election case of, third district of Texas	3	163
Green, Reverend J. W., letter from the, of the District of Columbia, asking that certain charges which he makes may be inquired into	2	58
Gun, letters from the Secretary of the Navy and Admiral Porter, relative to the purchase of the Wiard fifteen-inch	3	183
H.		
Hambleton, Martha L., papers relative to the case of	3	194
Homesteads, resolutions of the legislature of Wisconsin for, for officers, soldiers, and sailors	3	118
Homesteads, memorial of the legislature of Minnesota relative to, for soldiers	3	162
Houard, Doctor John E., resolution offered in the House by Mr. Randall relative to the case of	3	174
Houard, Doctor John E., resolution reported by Mr. Banks from the Committee on Foreign Affairs relative to the case of	3	185
Houard, Doctor John E., letter from the Secretary of State, inclosing a telegram from the chargé d'affaires at Madrid, relating to the case of	3	188
House of Representatives, list of the members of the, for the Forty-second Congress	1	2
House of Representatives, letter from the Clerk of the, transmitting his annual report of the contingent expenses of the	1	7
Hudson's Bay Company lands, resolution introduced by Mr. S. Garfielde, relative to	4	222
Humphrey and Abbott, report of, on the physics and hydraulics of the Mississippi River and its tributaries	2	86
I.		
Illinois, memorial of the governors of Indiana, Ohio, and, relative to the two per cent. fund	2	42
Illinois, resolutions of the legislature of, relative to the act granting lands to the State of, in aid of a railroad from Chicago to Mobile	2	72
Importations, memorial of the National Board of Trade relative to direct	3	139
Indemnity fund, memorial and draught of a bill from the committee of citizens of New York in relation to the Chinese	2	70
Indemnity fund, letter from the Secretary of State relative to the installments of the Japanese, which remain unpaid	3	151
Indiana, memorial of the governors of Illinois, Ohio, and, relative to the 2 per cent. fund	2	42
Indian reservations—(See Indians)		
Indians, protest of the Creek, Cherokee. and Choctaw nations against territorial governments for	2	51
Indians, supplemental memorial of, residing in Michigan and Indiana	3	137
Indians, resolution of the legislature of Minnesota to secure the cession of the Chippewa Indian reservation at the mouth of Pigeon River	3	149
Indians, resolution of the legislature of California relative to Indian affairs in Arizona	3	161
Indians, memorial of C. C. Pitchlyn, delegate of the Choctaw nation of, relative to the net proceeds of the award of the Senate of the United States	3	164
Indians, protest of the Indian delegates to the survey of the land in the Indian territory	3	166
Indians, memorial of the legislature of Wisconsin for the removal of certain bands of roving, to their western reservations	3	176
Indian-war claims, testimony in relation to the, of the Territory of Montana	4	215
Indirect damages, resolution offered in the House by Mr. Peters on the subject of, in the settlement of the Alabama claims	3	180
International Steamship Company, memorial of the, relative to iron-ship-building yards and docks	2	55
International copyright, resolutions on the subject of	2	80

Title.	Vol.	No.
Interpreters, letter from the Secretary of State inclosing correspondence upon the insufficient appropriations made for the employment of, in China	4	220
Iowa, resolution of the legislature of, for the enforcement of the law fixing the eastern terminus of the Union Pacific Railroad	2	107
J.		
Jail, petition of Charles A. Weidner for relief for work done on the, of the District of Columbia	2	45
Japanese indemnity fund, letter from the Secretary of State relative to the installments of the, which remain unpaid	3	151
Jefferson, Hon. Thomas, report of, as Secretary of State, on the subject of the cod and whale fisheries in 1791	1	32
Judiciary fund, letter from the Attorney-General, with exhibit of the expenditure of the	3	140
K.		
Kansas, papers relative to the claims of the State of	2	36
Kansas, resolution of the legislature of, relative to the Atchison, Topeka, and Santa Fé Railroad Company	2	83
Kansas, resolutions of the legislature of, in behalf of certain claimants for relief for losses sustained in the years 1855 and 1856	2	87
Kansas Pacific Railroad Company, memorial of the, against the discriminations of the Union Pacific Railroad Company	2	82
Kentucky, resolutions of the legislature of, for the refunding of the cotton tax	3	136
L.		
Lands, resolution of the legislature of the State of Tennessee, asking a grant of, for educational purposes	1	25
Lands, memorial of the legislature of Alabama, asking for a grant of, for railroad purposes	2	54
Lands, memorial of the legislature of Mississippi, asking a renewal of the land-grant to the Gulf and Ship Island Railroad Company	2	57
Lands, resolutions of the legislature of Illinois relative to the act granting, in aid of a railroad from Chicago to Mobile	2	72
Lands, memorial of the legislature of Alabama asking a grant of, in aid of the Warrior and Tennessee River Railroad	2	89
Lands, memorial of the legislature of Alabama asking a grant of, in aid of the Mobile and Northwestern Railroad	2	90
Lands, memorial of the legislature of Alabama asking a grant of land in aid of a railroad from Decatur, Alabama, to Aberdeen, Mississippi	2	91
Lands, memorial of the legislature of Wisconsin for a grant of, for the benefit of farm mortgagors	2	109
Lands, memorial of the legislature of Wisconsin for a grant of, in aid of the Green Bay and Superior Railway	3	125
Lands, memorial of John Bertschy relative to, to be reclaimed in Sheboygan County, Wisconsin	3	141
Lands, resolution of the legislature of California for donation of the public, for school purposes	3	144
Lands, resolution of the legislature of California in favor of the forfeiture in 1873 of the, granted to the Placerville Railroad	3	148
Lands, memorial of the legislature of Montana for a grant of, for a university	3	156
Lands, memorial of the legislature of Montana for authority to grant temporary leases of the school, therein	3	157
Lands, protest of the Indian delegates against the survey of their, in the Indian Territory	3	166
Lands, letter from the Commissioner of the General Land-Office giving information as to the cost and sales of public	3	167
Lands, memorial of the legislature of Missouri asking that the, remaining unsold in that State be granted to said State for educational purposes	3	197

Title.	Vol.	No.
Lands, resolution introduced in the House by Mr. Garfielde relative to the Hudson's Bay Company	4	222
Lay's torpedo plan, letter from the Secretary of the Navy relative to	4	210
Life-preserving stations, letter from the Secretary of the Treasury relative to the bill for	3	186
Lights and buoys, resolution of the legislature of Pennsylvania relative to the establishment of, on western rivers	4	204
Louisiana, resolution of the legislature of, asking the passage of the supplementary civil-rights bill	2	104
Louisiana, testimony taken by the select committee to investigate the condition of affairs in the State of	4	211
M.		
Mail, resolution of the legislature of California relative to the establishment of a weekly	2	94
Mail-route, resolution of the legislature of California for a, from Red Bluff to Shasta City	3	121
Mail-route, resolution of the legislature of California for a, from Red Bluff to Yreka	3	122
Maine, resolutions of the legislature of, relative to fishing interests in the State of	2	101
Maine, resolutions of the legislature of, relative to the shipping interests	3	111
Maine, resolutions of the legislature of, relative to the Niagara ship-canal	3	112
Maine, resolutions of the legislature of, relative to ship-building and mercantile interests	3	113
Massachusetts, memorial of the board of harbor commissioners of the State of, relative to the re-opening of Edgartown Harbor	2	59
Massachusetts, resolution of the legislature of, relative to fishing interests	2	64
Massachusetts, resolution of the legislature of, relative to American seamen	3	190
Maryland, resolution of the legislature of, relating to the survey of the harbor at the mouth of Patuxent River	3	114
Maury, Matthew F., resolutions of the legislature of North Carolina concerning the international meteorological observations by, &c	2	74
McKissick *vs.* Wallace, papers of contestant in contested-election case of	2	48
Meteorological observations, resolutions of the legislature of Tennessee relative to the establishment of a systematic plan of, and reports	1	12
Meteorological observations, resolutions of the legislature of North Carolina concerning the international, by Matthew F. Maury	2	74
Michigan, resolution of the legislature of, relative to the Chicago relief bill	3	145
Michigan, resolution of the legislature of, for an appropriation to complete the harbor of refuge at the mouth of Cheboygan River	3	159
Minnesota, resolutions of the legislature of, asking for the vacation of a certain portion of the Fort Ripley military reservation	2	97
Minnesota, resolution of the legislature of, for the cession of the Chippewa Indian reservation at the mouth of Pigeon River, to the State of	3	149
Minnesota, memorial of the legislature of, for an appropriation for a wagon-road from Lake Superior to the Net Lake Indian reservation	3	150
Minnesota, memorial of the legislature of, relative to soldiers' homesteads	3	162
Mississippi, memorial of the legislature of, asking a renewal of land grant to the Gulf and Ship Island Railroad Company	2	57
Mississippi, memorial of the legislature of, relative to the Reneau Female University	4	217
Missouri, concurrent resolution of the legislature of, relating to the improvement of the Osage River	1	29
Missouri, letter from the secretary of State of, transmitting a concurrent resolution of the legislature of the State of, for the improvement of the Mississippi River	1	30
Missouri, resolution of the State of, asking an appropriation for the survey and improvement of Gasconade River	1	26
Missouri, resolutions of the legislature of, relative to certain public buildings at Kansas City	2	85
Missouri, resolution of the legislature of, for an appropriation for a public building at Saint Joseph	3	134

Title.	Vol.	No.
Missouri, memorial of the legislature of, asking Congress to grant the lands remaining unsold in that State to said State for educational purposes	3	199
Missouri, memorial of the Saint Louis Board of Trade concerning the improvement of the Mississippi River	3	196
Montana, resolution of the legislative assembly of, asking for payment of what are known as Montana militia vouchers	2	99
Montana, memorial of the legislature of, for a grant of land for the establishment of a university therein	3	156
Montana, memorial of the legislature of, for authority to grant temporary leases of school lands therein	3	157
Montana, memorial of the legislature of, for an increase of the salaries of territorial officers	3	158
Montana, testimony in relation to the Indian-war claims of the Territory of.	4	215
Montgomery, Captain William W., resolutions of the Texas legislature for a pension to, and his heirs	2	43
Moses, Oliver et al., memorial of, owners of the ship John Carter	3	169
N.		
National Asylum for Disabled Volunteers, report of the board of managers of the, for the year 1871	4	226
National Board of Trade, resolutions of the, relative to specie basis and contraction of the currency	2	39
National Board of Trade, memorial of the, relative to direct importations..	3	139
National Reform Association, memorial of the, relating to the laws for the collection of customs revenue	2	68
National Savings Bank, letter from the treasurer of the, of the District of Columbia, transmitting report of the funds and investments from its organization to December 31, 1871	4	223
Navy, Secretary of, letters from the, and Admiral Porter, relative to the purchase of the Wiard fifteen-inch gun	3	183
Navy Department, proceedings of the select committee to investigate alleged irregularities in the administration of the	4	201
Navy, Secretary of, relative to Lay's torpedo plan, letter from the	4	210
Nebraska, resolution of the legislature of, relative to the improvement of the Wisconsin and Fox Rivers	2	63
New Jersey, memorial of citizens of the city of Paterson against any reduction of the duty on silk goods of foreign manufacture	3	142
New Jersey, resolution of the legislature of, relative to the improvement of the channel between Staten Island and	3	192
New Jersey, resolutions of the legislature of, recommending an additional appropriation for the signal service	3	195
New Mexico, memorial on the subject of a church and school building at Santa Fé	3	178
New Mexico, papers relating to private land claim No. 50, known as the Cañada de los Apaches grant	3	181
New York, petition of citizens of, for the establishment of the Workingmen's Co-operative Colonization National Bank	3	168
New York, memorial of the New York and Brooklyn Improvement Company, relative to swamp and overflowed lands at the Brooklyn navy-yard.	3	170
New York, letter from the Secretary of the Treasury relative to a building on the Government dock at the port of, for use of the surveyor of the port	4	202
New York, resolutions of the legislature of, asking that Albany be made a port of entry	4	206
New York, resolution of the legislature of, in favor of granting aid by an appropriation to the board of regents of the American Printing-House for the Blind and the American University for the	4	225
Niblack *vs.* Walls, papers in the contested-election case of, Florida	2	34
Niblack *vs.* Walls, additional papers in the contested-election case of, Florida.....part 2.	2	34
Night-accumulating reservoirs, letter from Mr. A. Watson relative to	3	152
Norris *vs.* Handley, third district of Alabama, relating to the contested-election case of	1	15

Title.	Vol.	No.
Norris *vs.* Handley, additional record evidence in the contested-election case of ..... part 2	1	15
North Carolina, resolutions of the legislature of, relative to the harbor of Cape Fear River	2	73
North Carolina, resolutions of the legislature of, concerning Matthew F. Maury's international meteorological observations, &c	2	74
Northern Pacific Railroad Company, evidence taken by the Committee on the Pacific Railway upon the actual condition of the	4	228
O.		
Ohio, memorial of the governors of Illinois, Indiana, and, relative to the two per cent. fund	2	42
Ohio, petition of electors of the third congressional district of, asking leave to take testimony in the contest of the seat of Lewis D. Campbell.	2	66
Ohio, answer of Lewis D. Campbell to the above petition ..... part 2.	2	66
Ohio, resolutions of the legislature of, relative to the records of Ohio soldiers in the War Department	3	154
Ohio, petition of citizens of Belpre, for some method of sending contributions to those suffering from famine in Persia	3	184
Ohio, resolution of the legislature of, opposing the reduction of the tariff on wool	3	197
Ohio, resolution of the legislature of, relative to a ship-canal around the Falls of Niagara	3	198
Ordnance Department, statement of the, relating to the manufacture and issue of arms to the militia	3	191
P.		
Pennsylvania, memorial of the underwriters and others of Pittsburgh, in favor of the exemption of steam towing-boats on western rivers from certain restrictions imposed upon passenger-boats	1	20
Pennsylvania, resolution of the legislature of, relative to granting aid to the American Printing House for the Blind	3	171
Pennsylvania, memorial of the Philadelphia Board of Trade against any enactment permitting the unrestricted purchase of foreign-built vessels ..	3	200
Pennsylvania, resolutions of the legislature of, relative to the establishment of lights and buoys in western rivers	4	204
Pension laws, resolution of the legislature of Tennessee relative to the modification of the	1	11
Pensions, resolutions of the legislature of Tennessee in favor of an act granting, to the widows of soldiers of the war of 1812	1	17
Pensions, papers relating to the pension case of William P. Calvert	2	40
Pensions, resolutions of the legislature of Texas for a pension to William W. Montgomery and heirs	2	43
Pensions, papers relative to the claim of W. H. H. Anderson	3	127
Perry, Hon. A. F., resolutions on the subject of civil service	2	77
Persia, petition of citizens of Belpre, Ohio, asking for some method of sending contributions to those suffering by famine in	3	184
Philadelphia Board of Trade, memorial of the, against any enactment permitting the unrestricted purchase of foreign-built vessels	3	200
Pitchlynn, C. C., delegate of the Choctaw nation, memorial of, upon the subject of the claim of the Choctaw nation to the net proceeds under the award of the Senate of the United States	3	164
Port of delivery, memorial of the legislature of Wisconsin for a port of delivery at La Crosse	3	116
Port of entry, resolution of the legislature of California relative to a, at San Diego	3	135
Port of entry, resolutions of the legislature of New York asking that Albany be made a	4	206
Postage, memorial of W. C. H. Waddell relative to a reduction of	3	187
Postal contracts, correspondence of the Postmaster-General with the Attorney-General, relative to	2	53
Postmaster-General, correspondence of the, with the Attorney-General relative to postal contracts	2	53

Title.	Vol.	No.
Postmaster-General, relative to an additional appropriation for the payment of the clerks of railway post-offices, letter from the	4	214
Post-routes, memorial of the legislature of Alabama asking postal facilities on the, of the Alabama and Tombigbee Rivers	2	106
Pressley, C. B., petition of, late Assistant Treasurer of the United States at Charleston, South Carolina	2	50
Printing-House for the Blind, resolution of the legislature of New York, in favor of aid for the American	4	225
Private land claim, papers relating to, No. 50, known as the Cañada de los Apaches grant	3	181
Public buildings, resolutions of the legislature of Missouri asking an appropriation for the erection of certain, at Kansas City, Missouri	2	85
Public buildings, statement of the cost of, in the several States therein named	2	102
Public buildings, memorial of the legislature of Colorado relative to capitol buildings in said Territory	3	123
Public buildings, memorial of the legislature of Missouri for a public building at Saint Joseph	3	134
Public buildings, memorial of the legislature of Wisconsin for a public building at Racine	3	147
Public buildings, letter from the Secretary of the Treasury relative to a public building on the Government dock at New York for the use of the surveyor of the port	4	202
Public Buildings and Grounds, letter from the Commissioner of, submitting statement of the condition of the Government property in and around Washington	4	224
Public deposits in national banks, relating to securities for	2	38
Public property, letter from the Clerk of the House of Representatives transmitting inventory of, in his charge	1	6
Public property, letter from the Architect of the Capitol transmitting an inventory of, in and about the Capitol, President's House, and Botanic Gardens	1	20
Q.		
Quicksilver, resolution of the legislature of California urging the necessity of abolishing the duty on	2	100
R.		
Railroads, memorial of the legislature of Alabama for a grant of lands for	2	54
Railroads, memorial of the legislature of Mississippi asking a renewal of the land grant to the Gulf and Ship Island Railroad Company	2	57
Railroad, resolutions of the legislature of Illinois relative to the act granting lands in aid of a railroad from Chicago to Mobile	2	72
Railroads, memorial of the Kansas Pacific Railroad Company, asking legislation to prevent the present action of the Union Pacific Railroad Company in discriminating against said Kansas Pacific Company, &c.	2	82
Railroads, memorial of the legislature of Alabama asking a grant of land in aid of the Warrior and Tennessee River Railroad	2	89
Railroads, memorial of the legislature of Alabama asking a grant of land in aid of the Mobile and Northwestern Railroad	2	90
Railroads, memorial of the legislature of Alabama asking land in aid of a railroad from Decatur, Alabama, to Aberdeen, Mississippi	2	91
Railroads, memorial of the San Luis Park and Transportation Company asking right of way for a railroad from San Luis Park to the Colorado River	2	105
Railroads, resolution of the legislature of California for the forfeiture in 1873 of the lands granted in favor of the Placerville Railroad	3	148
Railroads, resolution of the legislature of Iowa praying for the enforcement of the law fixing the eastern terminus of the Union Pacific Railroad	2	107
Railroads, memorial of the legislature of Wisconsin for a grant of lands in aid of the Green Bay and Superior Railway	3	125
Railroads, memorial of the governor of Georgia praying for payment of money due to said State for use of the Western and Atlantic Railroad	4	209

Title.	Vol.	No.
Railway postal clerks, letter from the Postmaster-General relative to an additional appropriation for the payment of	4	214
Reports, list of, to be made by public officers to the second session of the Forty-second Congress	1	1
Reservoirs, letter from Mr. A. Watson on night-accumulating	3	152
Rhode Island, resolution of the legislature of, relative to the indemnity for French spoliations	2	81
Rice, resolutions of the legislature of Georgia relative to the repeal of the duty on	2	67
Riker, S. S., president of the Washington and Georgetown Railroad Company, annual report of	2	62
Rivers and harbors, resolution of the legislature of the State of Missouri, asking an appropriation for the improvement of Gasconade River	1	26
Rivers and harbors, resolution of the legislature of the State of Missouri, relative to the improvement of Osage River	1	28
Rivers and harbors, resolution of the legislature of the State of Missouri for the improvement of the Mississippi River	1	30
Rivers and harbors, memorial of the board of harbor commissioners of Massachusetts relative to the re-opening of Edgartown Harbor	2	59
Rivers and harbors, resolution of the legislature of Nebraska relative to the improvement of the Wisconsin and Fox Rivers	2	63
Rivers and harbors, resolution of the legislature of North Carolina relating to the harbor of the Cape Fear River	2	73
Rivers and harbors, memorial of the legislature of Wisconsin relative to the improvements on the Fox and Wisconsin Rivers	2	78
Rivers and harbors, report of Humphrey and Abbott on the physics and hydraulics of the Mississippi River and its tributaries	2	86
Rivers and harbors, letter from the Chief of Engineers relative to water communication between the James and Ohio Rivers	2	88
Rivers and harbors, resolution of the legislature of West Virginia relating to the improvement of the Monongahela River	2	98
Rivers and harbors, memorial of the legislature of Wisconsin relative to refunding the city of Milwaukee for expenses of the straight-cut harbor	2	108
Rivers and harbors, resolution of the legislature of Maryland relative to the survey of the harbor at the mouth of Patuxent River	3	114
Rivers and harbors, memorial of the legislature of Wisconsin for an appropriation for the harbor at the mouth of the Menomonee River	3	115
Rivers and harbors, memorial of the legislature of Wisconsin relative to the harbor of Superior	3	132
Rivers and harbors, memorial of the legislature of Wisconsin for the improvement of the harbor at Port Washington	3	133
Rivers and harbors, resolution of the legislature of Michigan for an appropriation to complete the harbor of refuge at the mouth of Cheboygan River.	3	159
Rivers and harbors, memorial of the legislature of Wisconsin for the protection of the navigation of the Saint Croix River	3	175
Rivers and harbors, resolution of the legislature of New Jersey relative to the improvement of the channel between Staten Island and New Jersey	3	192
Rivers and harbors, resolutions of the legislature of West Virginia relative to an appropriation for the improvement of the Ohio River	3	193
Rivers and harbors, memorial of the Saint Louis Board of Trade concerning the improvement of the Mississippi River	3	196
Rivers and harbors, resolution of the legislature of West Virginia praying for an act authorizing the construction of a fill, or causeway, across the west branch of the Ohio River, near the head of Zane's Island	4	203
Rules, for the amendment of Rule 30 of the House of Representatives	1	13
Rules, for an additional rule of the House of Representatives relative to the drawing of seats	1	14
Rules, resolution by Mr. James Brooks proposing an amendment of the, relative to the business to be done in committee	4	205
S.		
Saint Louis Board of Trade, memorial of the, relating to the admission of certain articles free of duty for the benefit of Chicago	2	60

Title.	Vol.	No.
Saint Louis Board of Trade, memorial of the, concerning improvement of the Mississippi River	3	196
St. Petersburg, letter from the Secretary of State, transmitting letters relative to the salary of the secretary of legation at	1	23
Salaries, memorial of the legislature of Montana for an increase of the, of territorial officials therein	3	158
Sanitary science, memorial of Doctor C. C. Cox relative to the establishment of a bureau of	4	229
San Luis Park Transportation Company, memorial of the, asking right of way for a railroad from San Luis Park to the Great Colorado River	2	105
Schools, resolution of the legislature of California for donation of the public lands for purposes of	3	144
Schuylkill River, resolution of the select and common council of the city of Philadelphia relative to commerce on the	3	128
Seamen, letter from the Secretary of State relative to the annual report on the relief and protection of	3	130
Seamen, resolution of the legislature of Massachusetts relative to American	3	190
Seats, additional rule of the House relative to the drawing of	1	14
Ship-building, resolutions of the legislature of Maine relative to	3	113
Ship-building yards, memorial of the International Steamship Company relative to iron-ship-building yards and docks	2	55
Ship-canal, memorial of the legislature of Alabama relating to a, between the waters of the Gulf of Mexico and the Atlantic Ocean	2	110
Ship-canal, resolutions of the legislature of Maine relative to the Niagara	3	112
Ship-canal, resolution of the legislature of Ohio relative to a, around the Falls of Niagara	3	198
Ship-canal, resolution of the House of Representatives and letter from the Secretary of State in relation to an international	4	219
Shipping interests, resolutions of the legislature of Maine relating to the	3	111
Signal service, resolutions of the legislature of New Jersey recommending an additional appropriation for the	3	195
Signal-stations, resolutions of the legislature of Virginia relative to, at Hatteras	4	207
Silk, memorial of citizens of Paterson, New Jersey, against any reduction of the duties on silk goods of foreign manufacture	3	142
Smithsonian Institution, transmitting preliminary report for continuing the survey of the Colorado of the West by Professor Powell, letter from the secretary of the	3	173
Soldiers, resolutions of the legislature of Ohio relative to the records of, of Ohio in the War Department	3	154
South Carolina, Bowen *vs.* DeLarge, second district of, papers and testimony relative to the contested-election case of	2	37
South Carolina, papers in the contested-election case of McKissick *vs.* Wallace	2	48
South Carolina, resolutions of the legislature of, for relief of H. W. Carter, *et al.*, from political disabilities	2	49
South Carolina, resolution of the legislature of, asking the removal of political disabilities of Thomas Crymes	2	92
South Carolina, resolution of the legislature of, asking that the Federal troops be not removed from that State	3	160
Spain, letter from the Secretary of State relative to an alleged violation on the part of the United States of the treaty of 1819 with	3	131
Spink, S. L., testimony of, in the contested-election case of Spink and Burleigh against M. K. Armstrong, Dakota	2	75
Spoliations, resolution of the legislature of Rhode Island relative to indemnity for French	2	81
State, Secretary of, addressed to the chairman of the Committee on Foreign Affairs, relative to an international exposition of agriculture, industry, and fine arts, to be held at Vienna in 1873, letter from the	1	10
State, Secretary of, transmitting letters relative to the salary of the secretary of legation at St. Petersburg, letter from the	1	23
State, Secretary of, transmitting resolution of the legislature of the State of Missouri relative to the improvement of the Mississippi River	1	30
State, Secretary of, transmitting correspondence with the minister of the United States at Ecuador, in relation to cundurango, letter from the	2	65

Title.	Vol.	No.
State, Secretary of, relative to compensation of the commercial agent at Belize, British Honduras, letter from the	3	129
State, Secretary of, relative to the annual report on the relief and protection of American seamen, letter from the	3	130
State, Secretary of, relative to an alleged delinquency on the part of the United States in carrrying into effect the concluding paragraph of the ninth article of the treaty of 1819 with Spain, letter from the	3	131
State, Secretary of, relative to the installments of the Japanese indemnity fund which remain unpaid, letter from the	3	151
State, Secretary of, relative to the seizure of the steamers Nutrias and San Fernando, letter from the	3	172
State, Secretary of, inclosing a telegram from the chargé d'affaires at Madrid, relative to the claim of Doctor Houard for protection as an American citizen, letter from the	3	188
State, Secretary of, relative to the acceptance of testimonials from the Emperor of Germany by diplomatic and consular officers of the United States, letter from the	3	189
State, Secretary of, inclosing translation of a note from Mr. Schlözer, the German minister, relative to the rate of exchange in the United States of the new German "mark," letter from the	4	216
State, Secretary of, relative to an international ship-canal, letter from the	4	219
State, Secretary of, inclosing correspondence upon the insufficient appropriations made for the employment of interpreters in China, letter from the	4	220
State, Secretary of, inclosing letters in relation to the claims of American citizens against Venezuela, letter from the	4	221
State, Secretary of, relative to a joint resolution referred to the Committee on Foreign Affairs, stating that no persons are now in prison in Canada on account of complicity in the Fenian invasion of June, 1866, letter from the	4	227
Steam towing-boats, memorial of the underwriters and others of the city of Pittsburgh, Pennsylvania, in favor of the exemption of, on western rivers from certain restrictions imposed upon passenger-boats	1	19
Surfmen, letter from the Secretary of the Treasury to the chairman of the Committee on Appropriations relative to the employment of	1	8
T.		
Tariff, resolution of the convention of wool-growers, Syracuse, relative to the duties on wool	2	61
Tariff, resolutions of the legislature of Georgia relative to the repeal of the duty on rice	2	67
Tariff, memorial of citizens of Paterson, New Jersey, against any reduction of the duties on silk goods of foreign manufacture	3	142
Tariff, resolution of the legislature of Ohio against any reduction of the, on wool	3	197
Tax, letter to Hon. Charles H. Porter relative to a uniform rate of, of 16 cents per pound on manufactured tobacco	2	44
Tax, resolution of the legislature of Virginia relative to refunding the, on raw cotton	2	95
Tax, resolution of the legislature of, relative to a uniform rate of, on all descriptions of manufactured tobacco	2	96
Tax, memorial of the legislature of Georgia relative to refunding the cotton	2	103
Tax, resolutions of the legislature of Kentucky for the refunding of the, on cotton	3	136
Tax, petition of workmen of Petersburgh, Virginia, for a uniform, on tobacco	3	138
Tennessee, resolution of the legislature of the State of, relative to the modification of the pension laws	1	11
Tennessee, resolutions of the legislature of the State of, relative to the establishment of a systematic plan of meteorological observations and reports	1	12
Tennessee, resolutions of the legislature of, in favor of an act granting pensions to the widows of soldiers of the war of 1812	1	17

Title.	Vol.	No.
Tennessee, resolution of the legislature of, in favor of an act for refunding the tax paid upon cotton in the years 1866 and 1867	1	18
Tennessee, resolution of the legislature of the State of, asking lands for educational purposes	1	25
Texas, certificate of the election of W. T. Clark, third district of	1	4
Texas, certificate of the election of W. S. Herndon, first district of	1	5
Texas, additional papers in the contested-election case of Whitmore *vs.* Herndon ..... part 2.	1	5
Texas, joint resolution of the legislature of, asking for an act giving a pension to the widow and minor children of Captain William W. Montgomery	2	43
Texas, papers in contested-election case of Giddings *vs.* Clark, third district of	3	163
Texas, papers in the contested-election case of Whitmore *vs.* Herndon, first district of	3	182
Thompson, Waddy, letter from the commissioners of claims transmitting their report in the case of	4	213
Tobacco, letter addressed to Hon. Charles H. Porter relative to a tax of 16 cents as the uniform rate on	2	44
Tobacco, resolution of the legislature of Virginia relative to a uniform rate of tax on all descriptions of manufactured	2	96
Tobacco, petition of workingmen of Petersburgh, Virginia, for a uniform tax on	3	138
Treasury, Secretary of, to the chairman of the Committee on Appropriations, relative to the employment of surfmen on the New Jersey coast, letter from the	1	8
Treasury, Secretary of, transmitting a statement of the amounts refunded to the States for expenditures in raising volunteers	2	35
Treasury, Secretary of, relative to securities for public deposits in national banks, letter from the	2	38
Treasury, Secretary of, relative to deficiencies in the War Department, letter from the	2	52
Treasury, Secretary of, relative to the bill for life-preserving stations	3	186
Treasury, Secretary of, relative to a building on the Government dock at New York for use of the surveyor of the port, letter from the	4	202
Treaty of Washington, memorial of the Boston committee on fisheries on the American fisheries as affected by the	2	69
Troops, resolution of the legislature of South Carolina against the withdrawal of, from that State	3	160
Two per cent. fund, memorial of the governors of Illinois, Indiana, and Ohio relative to the	2	42
U.		
University, memorial of the legislature of Mississippi relative to the Reneau Female	4	217
Utah, memorial of the legislature of, for an amendment of the organic act of that Territory	3	155
Utah, memorial of the convention to frame a constitution for the admission of, into the Union as a State	3	165
Utah, memorial of citizens of, against the admission of that Territory as a State	4	208
V.		
Vaughn, Mrs. Martha G., and Mrs. Louisa Jackman, petition of, with other papers relative to their claim	2	71
Venezuela, letter from the Secretary of State inclosing correspondence relative to the claims of American citizens against	4	221
Vessels, memorial of Oliver Moses et al., owners of the ship John Carter	3	169
Vessels, letter from the Secretary of State relative to the seizure of the steamers Nutrias and San Fernando	3	172
Vessels, memorial of the Philadelphia Board of Trade against any enactment permitting the unrestricted purchase of foreign-built	3	200
Vienna, letter from the Secretary of State to the chairman of the Committee on Foreign Affairs relative to an international exposition of agriculture, industry, and fine arts to be held at, in 1873	1	10

Title.	Vol.	No.
Virginia, resolution of the legislature of, relative to refunding the tax on raw cotton	2	95
Virginia, resolution of the legislature of, relative to a uniform rate of tax upon all descriptions of manufactured tobacco	2	96
Virginia, resolutions of the legislature of, relative to signal-stations at Hatteras	4	207
W.		
Waddell, W. C. H., memorial of, relative to the reduction of postage	3	187
Wagon-road, memorial of the legislature of Colorado relative to a, to White River Indian agency	3	124
Wagon-road, memorial of the legislature of Minnesota for an appropriation for a, from Lake Superior to Net Lake Indian reservation	3	150
War Department, estimate of deficiencies in appropriations for the service of the, for the present fiscal year	2	52
War Department, resolutions of the legislature of Ohio relative to the records of Ohio soldiers in the	3	154
War, Secretary of, relative to report on hydraulics and physics of the Mississippi River and its tributaries, letter from the	2	86
Washington and Georgetown Railroad Company, annual report of the president of the	2	62
Water communication, memorial of the legislature of the State of Georgia relative to, between the Atlantic and Mississippi	2	41
Water communication, letter from the Chief of Engineers relative to, between the James and Ohio Rivers	2	88
Watson, Mr. A., letter from, relative to night accumulating reservoirs	3	152
Weidner, Charles A., petition of, for relief for work done on the jail of the District of Columbia	2	45
West Virginia, resolution of the legislature of, relative to removal of political disabilities	2	79
West Virginia, resolution of the legislature of, relating to the improvement of the Monongahela River	2	98
West Virginia, resolution of the legislature of, requesting her quota of arms	3	119
West Virginia, resolutions of the constitutional convention of, recommending that all political disabilities shall cease in the State of	3	179
West Virginia, resolutions of the legislature of, relative to an appropriation for the improvement of the Ohio River	3	193
West Virginia, resolution of the legislature of, praying for an act authorizing the construction of a fill, or causeway, across the west branch of the Ohio River, near the head of Zane's Island	4	203
Whitmore *vs.* Herndon, papers in contested-election case of, first district Texas	3	182
Wiard, Norman, letters from the Secretary of the Navy and Admiral Porter relative to the purchase of the Wiard gun	3	183
Wisconsin, memorial of the legislature of, relative to the Fox and Wisconsin River improvements	2	78
Wisconsin, memorial of the legislature of, relative to refunding the city of Milwaukee for expenses of straight-cut harbor	2	108
Wisconsin, memorial of the legislature of, for a grant of lands for the benefit of farm mortgagors	2	109
Wisconsin, memorial of the legislature of, for an appropriation for the harbor at the mouth of the Menomonee River	3	115
Wisconsin, memorial of the legislature of, for the establishment of a port of delivery at La Crosse	3	116
Wisconsin, memorial of the legislature of, for the repeal of the bankrupt law		117
Wisconsin, resolutions of the legislature of, relative to homesteads for officers, soldiers, and sailors	3	118
Wisconsin, memorial of the legislature of, for a grant of lands in aid of the Green Bay and Superior Railway	3	125
Wisconsin, memorial of the legislature of, relative to the harbor of Superior	3	132
Wisconsin, memorial of the legislature of, relative to the improvement of the harbor at Port Washington	3	133

Title.	Vol.	No.
Wisconsin, memorial of John Bertschy relative to lands to be reclaimed in Sheboygan County	3	141
Wisconsin, memorial of the legislature of, for a public building at Racine	3	147
Wisconsin, memorial of the legislature of, for the protection of the navigation of the Saint Croix River	3	175
Wisconsin, memorial of the legislature of, for the removal of certain bands of roving Indians to their reservations	3	176
Wisconsin, memorial of the legislature of, for authority to the board of managers of the National Asylum for Disabled Soldiers to transfer a parcel of ground to the State of, for the use of a Soldiers' Orphan Asylum	3	177
Wool, resolution of the legislature of Ohio against any reduction of the tariff on	3	197
Wool, resolution of the convention of wool-growers at Syracuse, New York, relative to the duties on	2	61

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 111.

SHIPPING INTERESTS OF MAINE.

RESOLUTIONS

OF

THE LEGISLATURE OF MAINE,

RELATING TO

The shipping interests.

MARCH 11, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Resolved, That while the census returns from the sea-board towns of this State indicate a great loss of population consequent upon the almost entire destruction of our merchant marine, and upon the burdens which our national legislation has imposed upon the ship-building interests of the State, which is almost entirely destroyed, we are satisfied, even though it is now conceded that iron vessels have not the superior advantages over wooden which they were formerly supposed to possess, and though commerce is returning to wooden bottoms, yet there can be no restoration of prosperity to our commercial towns, no return or retention of their laboring population, and no fair or equal competition with foreign shipwrights, unless the Congress of the United States will reverse or modify its legislative action with reference to these great interests, and relieve them from onerous taxes, which discriminate against those interests which ought specially to be protected.

Resolved, That the legislature of Maine looks anxiously to the Congress of the United States for the desired relief, and that it favors the passage of the bill introduced into the national House of Representatives by the member from the fifth district of this State.

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their best efforts to secure the passage of the bill now pending before Congress, or of some equally efficacious measure for the relief of our commercial and ship-building interests.

Resolved, That the governor be requested to forward to each of our Senators and Representatives a copy of these resolves, authenticated by his signature and those of the president of the senate and speaker of the house; and that the Maine delegation in Congress be requested to communicate these resolutions to that body.

IN THE HOUSE OF REPRESENTATIVES, *February* 29, 1872.

Read and passed finally.

FREDERICK ROBIE, *Speaker*.

IN SENATE, *February* 29, 1872.

Read and passed finally.

REUBEN FOSTER, *President.*

FEBRUARY 29, 1872.

Approved:

SIDNEY PERHAM, *Governor.*

STATE OF MAINE, OFFICE OF SECRETARY OF STATE,
Augusta, March 8, 1872.

I hereby certify that the foregoing is a true copy of the original, as deposited in this office.

G. G. STACY,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 112.

NIAGARA SHIP-CANAL.

RESOLUTIONS

OF

THE LEGISLATURE OF MAINE,

IN RELATION TO

The Niagara ship-canal.

MARCH 11, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Your memorialists, the legislature of the State of Maine, would state that whereas, to insure the continued development and consequent prosperity of the manufacturing and commercial interests of the Eastern States, and also to promote in the most efficient manner the agricultural and other interests of the West, indeed of the whole country, a system of cheaper transportation between the two sections than now exists or ever can be secured with the present means and facilities afforded by railroads and the limited and imperfect system of water-transit must be speedily opened up; and whereas the main and probably the only means of securing that object, to wit, cheap transportation, is by opening up continuous steam navigation from the Mississippi Valley to the Atlantic Ocean, by way of the great water-channels of the continent, thereby creating competing lines of transit, of unlimited capacity, between the grain-fields of the West and the Eastern and European markets; the most serious, indeed the only serious obstacle to the speedy consummation of that enterprise by way of the great lakes, river St. Lawrence, and Lake Champlain, exists at Niagara Falls; and whereas another movement has been inaugurated by the late commercial convention, held in the State of Michigan, in December last, to invoke the assistance of the General Government to break down that rocky barrier existing between Lakes Erie and Ontario as speedily as possible: Therefore, be it

Resolved, That Congress be requested to make an appropriation at its present session for the construction of a canal around the Falls of Niagara, on the American side, of the maximum capacity of the lakes, as speedily as can be done consistent with the best interest of the whole country.

Resolved, That our Senators and Representatives in Congress be requested to use their best efforts to secure such an appropriation at the present session.

Resolved, That duly authenticated copies of this preamble and resolutions be transmitted to the President of the United States, the Presi-

dent of the Senate, and Speaker of the House of Representatives, with request that they lay them before their respective houses, and to each of our Senators and Representatives in Congress.

IN THE HOUSE OF REPRESENTATIVES,
February 29, 1872.

Read and passed finally.

FREDERICK ROBIE, *Speaker.*

IN SENATE, *February* 29, 1872.

Read and passed finally.

REUBEN FOSTER, *President.*

FEBRUARY 29, 1872.

Approved:

SIDNEY PERHAM, *Governor.*

STATE OF MAINE, OFFICE OF SECRETARY OF STATE,
Augusta, March 8, 1872.

I hereby certify that the foregoing is a true copy of the original, as deposited in this office.

[SEAL.]

G. G. STACY,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 113.

SHIP-BUILDING AND MERCANTILE INTERESTS.

RESOLUTIONS

OF

THE LEGISLATURE OF MAINE,

IN RELATION TO

Ship-building and mercantile interests.

MARCH 11, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to press upon the immediate attention of that body the passage of an act allowing to the builder of any ship, vessel, or steamer a drawback equal to the duty paid upon all articles entering into the construction of said ship, vessel, or steamer; and that all provisions and supplies necessary for repairs or equipment of said vessels or steamers may be taken out of bond, under the regulations of the Treasury.

Resolved, That the governor be requested to communicate a copy of these resolves to our Senators and Representatives in Congress.

IN THE HOUSE OF REPRESENTATIVES, *February* 28, 1872.

Read and passed finally.

FREDERICK ROBIE, *Speaker*.

IN SENATE, *February* 28, 1872.

Read and passed finally.

REUBEN FOSTER, *President*.

FEBRUARY 29, 1872.

Approved:

SIDNEY PERHAM, *Governor*.

STATE OF MAINE, OFFICE OF SECRETARY OF STATE,
Augusta, *March* 8, 1872.

I hereby certify that the foregoing is a true copy of the original, as deposited in this office.

[SEAL.]

G. G. STACY,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 114.

HARBOR, MOUTH OF PATUXENT RIVER.

[To accompany H. R. 1879.]

JOINT RESOLUTION

OF

THE LEGISLATURE OF MARYLAND,

RELATING TO

Survey of harbor at mouth of Patuxent River.

MARCH 11, 1872.—Referred to the Committee on Naval Affairs and ordered to be printed.

Be it resolved by the general assembly of Maryland, That the Senators and Representatives of the State in the Congress of the United States be requested to exert their influence to obtain, at an early day, a survey and report, under the direction of the Chief of Engineers, to determine the extent of the harbor at and near the mouth of the Patuxent River, its depth of water, and adaptation to use in connection with proposed railroads, as a station for taking in coal and other supplies, and as a site for the erection of works for building, fitting, and repairing vessels of all classes, both of the national and commercial marine.

HENRY SNYDER,
President of the Senate.
A. P. GORMAN,
Speaker of the House of Delegates.

We hereby certify that the foregoing is a true copy of an original joint resolution passed by the general assembly of Maryland at the January session, eighteen hundred and seventy-two.

AUGUSTUS GASSAWAY,
Secretary of the Senate.
MILTON Y. KIDD,
Chief Clerk House of Delegates.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 115.

HARBOR AT MOUTH OF MENOMONEE RIVER.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

ASKING

For an appropriation for the harbor at the mouth of Menomonee River, between the States of Wisconsin and Michigan.

MARCH 11, 1872.—Referred to the Committee on Commerce and ordered to be printed.

To the honorable the Senate and House of Representatives in Congress assembled.

The memorial of the legislature of the State of Wisconsin respectfully represents: That the United States have already expended about twenty-five thousand dollars in opening a harbor at the mouth of the Menomonee River that empties into Green Bay and forms the dividing line between the State of Wisconsin and Lake Superior, Michigan, but that without further appropriation that already expended cannot be made available in the interests of commerce.

Your memorialists would further represent that the commerce of Green Bay has assumed such large proportions as to demand some satisfactory harbor of refuge on the western shore of said bay, and that there is at present no such harbor between Escanaba in Lake Superior, Michigan, and the harbor of Green Bay, at the mouth of Fox River, a distance of about one hundred and twenty miles, excepting the harbor at the mouth of the Peshtigo River, which has been built thus far exclusively by the private funds of the Peshtigo Manufacturing Company. That said Peshtigo Harbor is too small to meet the demands of commerce on the western shore of Green Bay; that the volume of water from the Menomonee River aforesaid is fully double that of any other river emptying into Green Bay, excepting the Fox River, and very nearly, if not quite, equal to that of the Fox; and that there are ample facilities, with a reasonable expenditure of public money, for a first-class harbor at that point.

Your memorialists would further represent that, without further appropriation, the money already expended would be uselessly wasted without any adequate results in the interests of the commerce of the country. Your memorialists would earnestly solicit your attention to

this important matter, and respectfully ask that a reasonable appropriation be made, the present session of Congress, for the uses and purposes herein set forth.

DANIEL HALL,
Speaker of the Assembly.
CHAS. G. WILLIAMS,
President of the Senate, pro tem.

Approved March 7, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC No. 116.

PORT OF DELIVERY AT LA CROSSE.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

PRAYING

For the establishment of a port of delivery at La Crosse, in the State of Wisconsin.

MARCH 11, 1872.—Referred to the Committee on Commerce and ordered to be printed.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

The memorial of the legislature of the State of Wisconsin respectfully represents:

That, since the formation of our Government, it has always been the just policy of Congress to extend every facility to the citizens of the several States in the transaction of such business as they might have with the different Departments of the General Government, where such facilities are needed.

That many of the citizens of that part of the State of Wisconsin bordering on the Mississippi River and its tributary streams are engaged in the business of transportation by means of steam vessels, and are necessarily compelled to comply with all the laws of the United States affecting that interest, and obtain from the proper officers of the custom-house the necessary papers in order legally to prosecute their business; and that as there is no place in Wisconsin on said river where such papers, which are imperatively required of them to be procured, can be had, they are forced to go to offices in the neighboring States to procure the same.

The citizens of every State bordering on the Mississippi, Missouri, and Ohio Rivers, excepting only the State of Wisconsin, have had extended to them the privilege of transacting the business necessary to be done at the custom-house within the limits of their own State. While Louisiana, Mississippi, Arkansas, Tennessee, Missouri, Kentucky, Illinois, Iowa, and Minnesota have had their wants attended to in this respect by Congress, Wisconsin, with her extended river front, has been apparently neglected; her citizens are forced to visit Saint Paul, in Minnesota, or Dubuque, in Iowa, for all custom-house purposes, for the enrolling, licensing, and inspection of vessels, and for obtaining the necessary information respecting tonnage owned by them; hence burdens

are imposed upon the citizens of our State which are imposed on those of no other State on the western rivers.

Your memorialists would further state that the city of La Crosse, in Wisconsin, is a central point on the Mississippi River, at an equal distance from the northern limit of the State of Illinois and the mouth of the St. Croix River.

That the citizens of said city and of the counties in this State, north and south of it, are largely interested in commerce and in the navigation of the river, and that the establishment of a port of delivery at the said port of La Crosse would be but an act of justice, and greatly facilitate the transaction of business arising and growing out of said commerce and navigation.

Your memorialists would therefore respectfully pray your honorable body, at as early a day as possible, by such legislation as it may deem expedient, to constitute La Crosse, in the State of Wisconsin, a port of delivery, and annex the same to the collection district of New Orleans.

DANIEL HALL,
Speaker of the Assembly.
MILTON H. PETTIT,
President of the Senate.

Approved March 5, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 117.

REPEAL OF THE BANKRUPT LAW.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

PRAYING

For the repeal of the bankrupt law.

MARCH 11, 1872.—Referred to the Committee on Revision of the Laws and ordered to be printed.

Whereas the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, by furnishing insolvents with an opportunity to relieve themselves from heavy burdens of debt which they were unable to pay, has met the exigency which demanded its passage, and its continual existence as a law furnishes unscrupulous debtors with a temptation to swindle and defraud their creditors, while it at the same time gives to creditors a despotic power over honest debtors that is repugnant to the sense of freedom and justice of every American citizen; and whereas, through its provisions permitting suits to be brought by assignees of bankrupts in the United States courts for trivial sums, our citizens are compelled, as a lesser evil, to pay the most unjust and fraudulent claims with large costs, rather than defend against them in distant courts at a many times greater expense; and the assets of bankrupts are thus largely consumed in fees to those charged with the execution of the law, without benefit to their creditors; and whereas the Federal courts are thus brought into great disrepute, and said act is perverted into a means for the unpunishable plundering of the people: Therefore,

Resolved by the assembly of the State of Wisconsin, (the senate concurring,) That our Senators and Representatives in Congress be, and they hereby are, requested, and, to the extent of our right so to do, instructed, to use all honorable means in their power to secure the repeal of said act, and all acts and parts of acts amendatory thereof.

Resolved further, That the governor is requested to cause each of our Senators and Representatives in Congress to be furnished with a copy of these resolutions and preamble thereto, certified under the great seal of the State of Wisconsin.

DANIEL HALL,
Speaker of the Assembly.
MILTON H. PETTIT,
President of the Senate.

Approved March 5, 1872.

C. C. WASHBURN,
Governor.

STATE OF WISCONSIN, *Secretary's Office:*

I, Llywelyn Breese, secretary of state of the State of Wisconsin, do hereby certify that the foregoing has been carefully compared with the original resolution on file in this office, and that the same is a true and correct copy thereof.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Wisconsin, at the capitol in Madison, this sixth day of March, A. D. 1872.

[SEAL.]

LL. BREESE,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 118.

HOMESTEAD LAW FOR OFFICERS, SOLDIERS, AND SAILORS.

RESOLUTIONS

OF

THE LEGISLATURE OF WISCONSIN,

RELATIVE TO

Homesteads for officers, soldiers, and sailors of the Navy.

MARCH 11, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

Resolved by the assembly, the senate concurring, That the Congress of the United States be requested to pass the following bill:

That where homestead entries have been made, or may hereafter be made, by parties who served in the military or naval service of the United States as officers, soldiers, or sailors for ninety days during the rebellion, such parties shall not be required to make settlement and cultivation of the land for the full period of five years from the date of such entry before receiving their patents; but the patents shall be issued on proof of settlement and cultivation for such time as may, with the time of their service in the Army or Navy during the rebellion, equal five years, the time of service or enlistment to be counted as part of the five years; in all cases quantity and location of land to be as provided in section 25 of an act approved July 15, 1870. Further, that any officer, soldier, or sailor, having received his discharge before the expiration of his term of enlistment on account of wounds received or disability incurred while in the service of the United States, he shall be allowed credit for the full term of his enlistment.

Further, that any officer, or soldier, or sailor entitled to the above provisions, having died after being discharged, the widow, children, or parents, in the order named, shall be entitled to the same privileges as the soldiers in securing credit for the length of time served in the Army or Navy of the United States: *Provided*, That this rule shall not apply to any entries which may have been annulled or vacated by the Commissioner of the General Land-Office, on account of abandonment or other cause, prior to the passage of this resolution.

DANIEL HALL,
Speaker of the Assembly.
MILTON H. PETTIT,
President of the Senate.

Approved March 5, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 119.

QUOTA OF ARMS FOR VIRGINIA.

JOINT RESOLUTION

OF

THE LEGISLATURE OF VIRGINIA,

REQUESTING

Congress to furnish Virginia her quota of arms.

MARCH 11, 1872.—Referred to the Committee on the Militia and ordered to be printed.

Whereas the State is in great need of arms and equipments for her militia, which she is not able to purchase, and must rely upon obtaining from the Government of the United States; and whereas it is believed that some errors have been made in the account of the War Department with this State under the acts of Congress of twenty-third April, eighteen hundred and eight, and third March, eighteen hundred and fifty-five, providing for the arming and equipping of the militia of the several States, by which the quota of Virginia, under said acts, has been unduly lessened; therefore, be it

Resolved by the house of delegates, (*the Senate concurring*,) That our Senators and Representatives be requested to take such action as to them shall seem proper, to secure the correction of any errors which may have been made, and the restoration of the full quota to which this State is entitled under the acts of eighteen hundred and eight, and eighteen hundred and fifty-five, and to obtain for this State sufficient arms and equipments to arm and equip her militia.

Resolved, That the Governor be requested to forward copies of these resolutions to our Senators and Representatives.

A copy:

J. BELL BIGGER,
Clerk of the House of Delegates and
Keeper of the Rolls of Virginia.

FEBRUARY 27, 1872.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 120.

CHINESE IMMIGRATION.

RESOLUTIONS

OF

THE LEGISLATURE OF CALIFORNIA,

INSTRUCTING

The Senators and requesting the Representatives of that State in Congress to urge upon the Federal Government the adoption of such treaty regulations and legislation as shall discourage further immigration of Chinese to the United States.

MARCH 11, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

Whereas the presence in our midst of a large number of Chinese, who are incapable of assimilation with our own race, ignorant of the nature and forms of our Government, and who manifest no disposition to acquire a knowledge of the same or to conform to our habits, manners, and customs, is a serious and continuing injury to the best interests of the State; and whereas their employment, under the plea of cheap wages, is offensive to the exalted American idea of the dignity of labor, detrimental to the prosperity and happiness of our own laboring classes, and an evil which should be abated: Therefore, be it

Resolved by the assembly, (*the senate concurring*,) That our Senators in Congress be instructed and our Representatives requested to use their influence and urge upon the Federal Government the adoption of such treaty regulations and legislation as shall discourage their further immigration to our shores.

Resolved, That the governor be requested to forward a copy of this preamble and these resolutions to our Senators and Representatives at Washington without delay.

P. J. HOPPER,
Speaker of the Assembly pro tem.
R. PACHECO,
President of the Senate.

Assembly concurrent resolution No. 3. Passed the assembly January 8, 1872.

GEORGE W. DIXON,
Assistant Clerk of the Assembly.

Passed the senate February 17, 1872.

ROBERT FERRAL,
Secretary of the Senate.

STATE OF CALIFORNIA, *Department of State:*

I, Drury Melone, secretary of state of the state of California, do hereby certify that the annexed is a true, full, and correct copy of assembly concurrent resolution No. 3, passed the assembly January 8, 1872, passed the senate February 17, 1872, now on file in my office.

Witness my hand and the great seal of the State, at office in Sacramento, California, the 1st day of March, A. D. 1872.

[SEAL.]

DRURY MELONE,
Secretary of State.

By H. H. RUSSELL,
Deputy.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 121.

MAIL-ROUTE IN CALIFORNIA.

RESOLUTION.

OF

THE LEGISLATURE OF CALIFORNIA,

ASKING

For the establishment of a mail-route from Red Bluff to Shasta City, California.

MARCH 11, 1872.—Referred to the Committee on the Post-Office and Post-Roads and ordered to be printed.

Resolved by the assembly, (*the senate concurring*,) That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure the establishment of a semi-weekly mail-route from the town of Red Bluff, in the county of Tehama, California, via Roaring River, Jamesville, Igo, Piety Hill, Horsetown, and Middletown, to Shasta City, in Shasta County, California.

Resolved, That the governor be requested to immediately forward a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

T. B. SHANNON,
Speaker of the Assembly.
R. PACHECO,
President of the Senate.

Assembly joint resolution No. 25, passed the assembly February 14, 1872.

M. D. BORUCK,
Clerk of the Assembly.

Passed the senate February 20, 1872.

ROBERT FERRAL,
Secretary of the Senate.

STATE OF CALIFORNIA, *Department of State:*

I, Drury Melone, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of assembly joint resolution No. 25, passed the assembly February 14, 1872, passed the senate February 20, 1872, now on file in my office.

Witness my hand and the great seal of the State, at office in Sacramento, California, the 1st day of March, A. D. 1872.

[SEAL.]

DRURY MELONE,
Secretary of State.
By H. H. RUSSELL,
Deputy.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 122.

MAIL-ROUTE IN CALIFORNIA.

JOINT RESOLUTION

OF

THE LEGISLATURE OF CALIFORNIA,

ASKING

For the establishment of mail-route from Red Bluffs to Yreka, California.

MARCH 11, 1872.—Referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

Whereas the Congress of the United States did, on or about the day of , A. D. 1855, establish by act a daily mail-route from Lincoln, California, via Red Bluff, Shasta City, Trinity Center, Callahan's Ranch, and Fort Jones, to Yreka, and the said daily mail was carried over said route until the year 1871—about sixteen years, during which time delays of not more than 3 days at any one time ever occurred; and whereas a change was made from the route above described to the Sacramento River route, about the month of May, 1871, during which time delays of 10 and 15, and as high as 23 days have occurred in transporting the mail over this route since the 1st of December, 1871; and there has been no mail whatever carried between Trinity Center and Callahan's Ranch, as it was contracted for by the company now carrying the mails, since said 28th day of May, 1871; and a party desiring to send a letter from Trinity Center to Callahan's Ranch, a distance of 32 miles, must send such letter south 100 miles, thence northeast 160 miles to Yreka, thence southwest 45 miles, to Callahan's Ranch, a total distance of 305 miles; and whereas the Census Report shows a population of 25,070 inhabitants in the county of Shasta, Trinity, Klamath, Siskiyou, Del Norte, and Humboldt, who heretofore have received their mails over the route which was established as a daily route in 1855; and whereas the increase of travel and of business make it necessary for public convenience to have both the Sacramento River route and the route via Red Bluff and Shasta to Callahan's Ranch and Yreka, in active operation, and for mails to be carried over them both: Therefore,

Be it resolved by the assembly of the State of California, (the senate concurring,) That our Senators in Congress be instructed and our Representatives requested to use their influence to procure the establishment of a daily mail from the town of Red Bluff, via Cottonwood, Shasta City, Whisky Town, Tower House, French Gulch, Trinity Valley, Trinity Center, New York House, Callahan's Ranch, Ohio House, Hartstrand's

Station, Etna Mills, Crystal Creek, Scott Valley, Fort Jones, Gordon's Mills, and Forest House, to Yreka.

Resolved, That his excellency the governor be requested to forward a copy of these resolutions to the Postmaster General of the United States and to each of our Senators and Representatives in Congress.

P. J. HOPPER,
Speaker of the Assembly pro tem.
R. PACHECO,
President of the Senate.

Assembly joint resolution No. 24, in reference to a mail route from Red Bluff, &c., passed the assembly February 12, A. D. 1872.

GEO. W. DIXON,
Assistant Clerk of the Assembly.

Passed the senate February 19, A. D. 1872.

T. J. SHACKLEFORD,
Assistant Secretary of the Senate.

STATE OF CALIFORNIA, *Department of State:*

I, Drury Melone, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of assembly joint resolution No. 24, passed the assembly February 12, 1872, passed the senate February 19, 1872, now on file in my office.

Witness my hand and the great seal of the State, at office in Sacramento, California, the 1st day of March, A. D. 1872.

[SEAL.]

DRURY MELONE,
Secretary of State.

Per H. H. RUSSELL,
Deputy.

○

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 123.

CAPITOL BUILDINGS IN COLORADO.

JOINT MEMORIAL

OF THE

LEGISLATURE OF COLORADO TERRITORY,

IN RELATION TO

Capitol buildings in said Territory.

MARCH 11, 1872.—Referred to the Committee on the Territories and ordered to be printed.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives of the Territory of Colorado, would most respectfully represent to your honorable bodies:

First. That our Territory is in great need of a capitol building, for the accommodation of the legislature and territorial officers; that it is often impossible to get adequate and convenient rooms for the meeting of the legislature, and for the proper transaction of legislative duties.

Second. The people of this Territory have subscribed and propose to raise a sum equal to twenty-five or thirty thousand dollars, to be applied to the erection of capitol buildings.

Third. That the Territory of Colorado, since its organization, has paid to the Government of the United States internal revenue taxes to the amount of about $800,000.

Fourth. Your memorialists, therefore, respectfully ask that the sum of $100,000, as collected from internal revenue taxes within this Territory, be appropriated for the purpose of assisting in the erection of a capitol building at the seat of government of the Territory.

ALVIN MARSH,
Speaker of House of Representatives.
G. M. CHILCOTT,
President of Council.

Approved February 9, 1872.

EDWARD M. McCOOK,
Governor.

SECRETARY'S OFFICE, *Colorado Territory.*

I, Frank Hall, secretary of the Territory of Colorado, do hereby certify that the foregoing is a correct transcription of "council joint memorial, (No. 5,) in relation to capitol buildings," the original instrument being now on file among the legislative records of my office.

In testimony whereof I have hereunto set my hand, and caused the great seal of the Territory of Colorado to be affixed this 24th day of February, A. D. 1872.

FRANK HALL,
Secretary of Colorado Territory.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 124.

WAGON-ROAD IN COLORADO.

JOINT MEMORIAL

OF THE

LEGISLATURE OF COLORADO TERRITORY,

FOR

The construction of a wagon-road to White River Indian agency, in Colorado Territory.

MARCH 11, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the council and house of representatives of Colorado Territory, beg leave, most respectfully, to represent that great necessity exists for the construction of a wagon-road from Georgetown, in Clear Creek County, over the main range of the Rocky Mountains, through the Middle Park, and over Gore's range of mountains, to the White River Ute Indian agency, in Summit County, in said Territory. The opening of said road will greatly facilitate the transportation of Indian goods and supplies to said agency, and very much reduce the expense thereof to the General Government. It will also hasten the settlement of the Middle Park, and the rich agricultural and pastoral county north of the Ute Indian reservation, and aid in the development of its remarkable mineral and other resources. The distance from Georgetown to the White River agency, by this route, is not more than 125 miles, or, from Denver, 175 miles. In view of the facts above set forth, and the great benefits that will inure therefrom to the General Government and to the Territory of Colorado, your memorialists pray that a liberal and reasonable appropriation be made from the Treasury of the United States, by your honorable body, for the construction of said wagon-road above described.

ALVIN MARSH,
Speaker of House of Representatives.
G. M. CHILCOTT,
President of Council.

Approved February 9, 1872.

EDWARD M. McCOOK,
Governor.

SECRETARY'S OFFICE, *Colorado Territory.*

I, Frank Hall, secretary of the Territory of Colorado, do hereby certify that the foregoing is a correct transcription of "council joint memorial, (No. 3,) for the construction of a wagon-road to White River Indian agency, in Colorado Territory," the original instrument being now on file among the legislative records of my office.

In testimony whereof, I have hereunto set my hand and caused the great seal of the Territory of Colorado to be affixed, this 24th day of February, A. D. 1872.

[SEAL.]

FRANK HALL,
Secretary of Colorado Territory.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 125.

GREEN BAY AND SUPERIOR RAILWAY.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

ASKING

For a grant of public lands to aid in the construction of the Green Bay and Superior Railway.

MARCH 11, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

The memorial of the legislature of the State of Wisconsin respectfully represents:

That the construction of the Green Bay and Superior Railway, from the city of Green Bay to Lake Superior, would immediately open to the rapid settlement and development of a vast and important section of our State, thereby promoting many important commercial interests confined to no single State; besides, it would greatly enhance the value of the remaining public lands along the line of said road.

Your memorialists would therefore respectfully ask for the passage of a bill granting some of the public lands along the line of the said railway, to aid in the construction of such railway.

DANIEL HALL,
Speaker of the Assembly.
CHAS. G. WILLIAMS,
President of the Senate pro tem.

Approved March 6, 1872.

C. C. WASHBURN, *Governor.*

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 126.

TIME OF ATTORNEY GENERAL'S REPORT TO CONGRESS.

[To accompany bill H. R. 1891.]

LETTER

FROM

THE ATTORNEY GENERAL,

ADDRESSED TO THE

CHAIRMAN OF COMMITTEE ON APPROPRIATIONS,

RELATIVE TO

A change of the time for making report to Congress.

MARCH 11, 1872.—Referred to the Committee on the Judiciary and ordered to be printed.

DEPARTMENT OF JUSTICE,
Washington, March 8, 1872.

SIR: Referring to our conversation of yesterday in relation to changing the time of the Attorney General's annual report to Congress, I inclose, as you requested, a draught of a bill, which, I think, will effect the object desired.

I have added to it a section as to the distribution of the United States Statutes and Supreme Court Reports to the judges and attorneys of the United States, to which I ask your favorable consideration.

Now that such supervision as the Secretary of the Interior formerly had over the accounts and other affairs of those officers has been transferred to this Department, with the exception of the distribution of these documents, I think it would be well also to transfer that duty to this Department.

As the Secretary of the Interior contracts with the publishers of those documents, and as a large number of them are distributed to others than officers of the courts, I think it would be well to let the authority to contract for the publication of the books remain with him, rather than to have two Departments making contracts with the same parties for the same purpose.

Very respectfully, your obedient servant,

GEO. H. WILLIAMS,
Attorney General.

HON. JAMES A. GARFIELD,
Chairman Committee on Appropriations,
House of Representatives.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 127.

WILLIAM H. H. ANDERSON.

[To accompany bill H. R. 1900.]

PAPERS

RELATING TO THE CLAIM OF

WILLIAM H. H. ANDERSON,

FOR

Pension.

MARCH 11, 1872.—Referred to the Committee on Invalid Pensions and ordered to be printed.

Additional evidence in the case of William H. H. Anderson, No. 105,112, for invalid pension.

STATE OF INDIANA, *Owen County, ss :*

On this 3d day of March, A D. 1871, personally appeared before me, a notary public in and for said county and State aforesaid, William H. H. Anderson, and, being duly sworn according to law, declares that at the time his alleged injury was received, on account of which he made his application for invalid pension, he was, with a squad of men, lately discharged from the First Indiana Heavy Artillery Volunteers, under the command of Lieutenant Jesse Hadden, of Company D, First Indiana Heavy Artillery Volunteers, and on board the steamboat Empress, then used as a Government transport.

WILLIAM H. H. ANDERSON.

Also, on the same day, and at the same time, personally appeared William R. Dagley, William H. Westfall, and George W. Marksbury, residents of the town of Gosport, Owen County, in the State of Indiana, persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say, that they were members of Company B, First Indiana Heavy Artillery Volunteers, and that they were discharged at the same time and place with William H. H. Anderson, who was also a late private in said company. and that we were paid in full, including transportation, August 4, 1864, and were placed on board the steamboat Empress, then used as a Government transport, with the balance of our company and regiment discharged at that time, under the command of Lieutenant Jesse Hadden, of Company D of said regiment, and while on board said boat, and under said command, on our way to our place of enlistment at Sewel's Point, on the Arkansas side of the Mississippi River, we were attacked by a rebel force of infantry, sup-

ported by some seven or eight pieces of artillery, at which place, and from the enemy's artillery, the said William H. H. Anderson was wounded in the right shoulder; and they further say that they were present and saw William H. H. Anderson sign his name to the foregoing declaration or affidavit, and, from their acquaintance with him, they know him to be the person he represents himself to be. And they further swear that they reside as stated, and have no interest in the prosecution of this claim, directly or indirectly.

WILLIAM H. WESTFALL.
GEORGE W. MARKSBURY.
WILLIAM R. DAGLEY.

Sworn to and subscribed before me this 3d day of March, A. D. 1871; and I hereby certify that I have no interest, direct or indirect, in the matters and things set out in the foregoing affidavits. And I further certify that the foregoing declaration was read over to him before signing, in the hearing of the witnesses; also that the foregoing witnesses' joint affidavit was read over to them before signing.

[SEAL.] WILLIAM M. MERWIN,
Notary Public.

STATE OF INDIANA, *Owen County, ss:*

I, James S. Meek, clerk of the circuit court in and for said county and State, do hereby certify that William M. Merwin, before whom the within instrument was acknowledged, and whose certificate of acknowledgment appears thereto, signed in his own proper handwriting, was at the date thereof a notary public in and for said county, duly commissioned and qualified, and as such full faith and credit are due all his acts.

Witness, James S. Meek, clerk, and the seal of said court, at Spencer, this 13th day of March, 1871.

[SEAL.] JAMES S. MEEK, *Clerk.*

DEPARTMENT OF THE INTERIOR, PENSION-OFFICE,
Washington, D. C., March 8, 1871.

SIR: As the evidence shows that the disability was not contracted until after discharge from the service, your claim for invalid pension, No. 105,112, is inadmissible; but as the wound appears to have been inflicted while returning home, the claim would seem to be a proper one for application to Congress.

Respectfully,

H. VAN AERNAM,
Commissioner.

WM. H. H. ANDERSON,
Gosport, Indiana.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 128.

COMMERCE OF THE SCHUYLKILL RIVER.

[To accompany bill H. R. 1769.]

RESOLUTION

OF

THE SELECT AND COMMON COUNCIL

OF THE CITY OF PHILADELPHIA,

RELATIVE TO

The commerce of the Schuylkill River.

MARCH 12, 1872.—Referred to the Committee on Commerce and ordered to be printed.

CLERK'S OFFICE, COMMON COUNCIL,
Philadelphia, March 9, 1872.

SIR: This is to certify that the following is a true and correct copy of the original resolution approved by his honor the mayor, March 9, 1872, entitled "Resolution of request to the honorable the Senate and House of Representatives of the United States of America:"

Whereas a bill is now pending before the Senate and House of Representatives of the United States of America, entitled "A bill to regulate the commerce of the Schuylkill River," (file of the House of Representatives, No. 1542,) the effect of which, if passed, will be to interfere very materially with the convenience of the citizens of Philadelphia in the use and enjoyment of the Penrose Ferry Bridge and Gray's Ferry Bridge across the river Schuylkill, and to subject this city to enormous expense; and whereas the said Gray's Ferry Bridge has been built since the year 1838, and the Penrose Ferry Bridge was built A. D. 1858, with special reference to the convenient navigation of said Schuylkill River, with a draw of the width of over eighty (80) feet in the clear, between the piers, at low water, and in exact accordance with the expressed wishes of "the Schuylkill Navigation Company" to that effect; and whereas the said Penrose Ferry Bridge was well and sufficiently repaired, with proper fenders, and all other appliances for the convenience and safety of vessels navigating said Schuylkill River, in the year 1871, at a cost of over $40,000 to the city of Philadelphia, and under the superintendence of the chief engineer thereof, and the same is now in complete repair; and whereas the free and convenient navigation of said river has never been impeded by the said bridges, and "the commerce of the river Schuylkill" does not require the removal or rebuilding of

said bridges, or either of them, as contemplated by the provisions of said bill: Therefore,

Resolved by the select and common councils of the city of Philadelphia, That the honorable the Senate and House of Representatives of the United States of America be, and the same are hereby, respectfully and earnestly requested not to pass said proposed act of Congress; as, in the opinion of councils, the wants of the community, and the commerce of the port of Philadelphia, and of the river Schuylkill, (as embraced therein,) do not require the passage thereof, and the convenience of the community at large will be greatly prejudiced thereby.

Resolved, That the clerks of councils be directed to transmit a copy of the foregoing preamble and resolution to the Speakers of the Senate and House of Representatives.

Attest:

JOHN ECKSTEIN,
Clerk of Common Council.

Hon. JAS. G. BLAINE,
Speaker of the House of Representatives.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 129.

COMMERCIAL AGENT AT BELIZE.

LETTER

FROM

THE SECRETARY OF STATE,

ADDRESSED TO

HON. N. P. BANKS, CHAIRMAN OF THE COMMITTE ON FOREIGN AFFAIRS,

RELATING TO

The compensation of the commercial agent at Belize, British Honduras.

MARCH 15, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

DEPARTMENT OF STATE,
Washington, December 5, 1871.

SIR: By the act of Congress entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1871, and for other purposes," approved July 11, 1870, the commercial agency at Belize, British Honduras, was transferred to Schedule C, of the consular service, but no salary was named by the act as appropriated for the office. The office had, since its establishment, been compensated by the fees collected. Upon the date of the approval of the act above mentioned, the present incumbent of the agency, Mr. Asa C. Prindle, who had acted for several years as vice-commercial agent, was appointed commercial agent. Owing to the omission on the part of Congress to affix a salary to the office—although by its transfer to Schedule C it was placed in the list of salaried commercial agencies—none has been allowed; but under the circumstances it was thought proper by this Department to permit the agent to retain as his compensation such fees as he might collect in pursuance of law from the date of his appointment, subject to the action of Congress.

The above statements are submitted for the consideration of your committee, and for such action as may be deemed necessary and proper.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
Chairman of the Committee on Foreign Relations,
House of Representatives.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 130.

PROTECTION OF AMERICAN SEAMEN.

LETTER

FROM

THE SECRETARY OF STATE,

ADDRESSED TO

HON. N. P. BANKS, CHAIRMAN OF THE COMMITTEE ON FOREIGN AFFAIRS,

RELATIVE TO

The annual report on the relief and protection of American seamen.

MARCH 15, 1872.—Referred to the Committee on Commerce and ordered to be printed.

DEPARTMENT OF STATE,
Washington. March 12, 1872.

SIR: I have the honor to transmit herewith copies of communications from Mr. Charles C. Beaman, jr., recently examiner of claims, and Mr. Charles Payson, statistical clerk of this Department, suggesting that Congress be recommended to adopt such legislation as shall exempt this Department from any longer making the annual report known as the "Report on the relief and protection of American seamen."

The reasons adduced in support of this recommendation are to be found in the communications herewith transmitted, and appear to me to be worthy of favorable consideration.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
Chairman of the Committee on Foreign Affairs,
House of Representatives.

Inclosures.

Mr. Payson to the Secretary of State, January 5, 1872.
Mr. Beaman to the Secretary of State, January 12, 1871.

DEPARTMENT OF STATE, STATISTICAL BUREAU,
January 5, 1872.

SIR: I have the honor respectfully to suggest the expediency of your recommending to Congress that this Department may be exempted, in the future, from transmitting to it the annual report known as the "Report on the relief and protection of American seamen."

This report is transmitted to Congress in compliance with an act of March 2, 1799, (Stat. 1, p. 731,) and contains an abstract of the returns made to this Department by collectors of customs, pursuant to the act of May 28, 1796, (1 Stat., p. 477,) thus showing the number of seamen registered in the several ports of entry in the United States to whom certificates of citizenship have been issued during the year.

As appears from the above acts, the object of these certificates of citizenship was the protection of American sailors from foreign impressment, the necessity for which protection seems no longer to exist, for the number of seamen reported as seeking or receiving these certificates has been dwindling down from year to year, until the last report shows that the number of seamen registered under the act of May 28, 1796, above referred to, was, at the port of New York only 3, at Boston only 1, and throughout the United States as few as 41. Under these circumstances this report entails, in my opinion, a useless expense upon the Government.

I have the honor to be, sir, your obedient servant,

CHAS. PAYSON,
Chief of Statistical Bureau.

The Hon. HAMILTON FISH,
Secretary of State.

The subjoined statement shows the number of seamen who received certificates of citizenship throughout the United States during each of the years specified:

First three quarters of year ending	September 30,	1822	3,589
Do	do	1830	4,302
Do	do	1834	6,025
Do	do	1840	8,091
Do	do	1845	8,579
Do	do	1850	9,191
Do	do	1855	9,686
Do	do	1856	8,116
Do	do	1857	8,144
Do	do	1858	6,889
Do	do	1861	4,517
Do	do	1864	2,760
Do	do	1865	1,324
Do	do	1866	838
Do	do	1867	710
Do	do	1869	218
Do	do	1870	99
Do	do	1871	41

DEPARTMENT OF STATE,
Washington, January 12, 1872.

SIR: I have the honor to state that I have read the report made to you by Mr. Charles Payson, of the Statistical Bureau of this Department, dated January 5, 1872, in which he suggests the expediency of your recommending to Congress that this Department may be exempted in future from transmitting to Congress the annual report known as the "Report on the relief and protection of American seamen;" and after an examination of the law and facts connected with the same, I think the suggestion made by him is worthy of your favorable action.

You will notice from the report made by him of the number of sailors registered during different years, that the number continued to be considerable until the year 1864, since when it has fallen off very rapidly, because these certificates are, under existing cases, no longer of particular value to sailors.

The object of these certificates of citizenship was in the beginning the protection of American sailors from foreign imprisonment, the necessity of which protection, after a few years, ceased to exist, as Mr. Payson states; but these certificates of citizenship continued to be used as presenting official evidence to captains and others that a sailor was a citizen of the United States, for by the laws of the United States at one time none but citizens of the United States could be employed on board of vessels of the United States; and later, and until 1864, certain discriminations were made in favor of vessels certain proportions of whose crews were citizens of the United States; but by the act of June 18, 1864, (13 Stat., p. 201,) all acts making any such discrimination were repealed, and it is no longer of particular importance to the captain or officers that they should know that their sailors have certificates to show that they are citizens of the United States.

The sailors, then, have no longer need of the certificates to protect them from imprisonment, nor to show that they can lawfully ship on a vessel of the United States, and they therefore no longer apply for them.

The forty-one sailors who have received certificates in the year 1871 must be considered, not as the whole number of American seamen, but as the number who, from ignorance of the change in the law, or from custom or some other motive, have still sought the certificate of citizenship.

Agreeing with Mr. Payson, that under such circumstances the quarterly report to this Department, and the annual report of this Department to Congress, are unnecessary, I beg to inclose herewith, for your consideration, a draught of two sections, which might be added in Congress to some act, the first of which sections will relieve the collectors from the duty which, under existing circumstances, is in most instances simply to send to this Department a report that no seamen have applied for certificates of citizenship, and the second of which will relieve this Department from the duty of reporting to Congress that such returns have been received from the collectors, but neither of these sections will otherwise change the act of March 2, 1799, which entitles American seamen to receive a certificate of American citizenship.

I have the honor to be, sir, your obedient servant,

CHAS. C. BEAMAN, JR.,
Examiner of Claims.

Hon. HAMILTON FISH,
Secretary of State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the seventh section of an act, entitled "An act for the relief and protection of American seamen," approved May twenty-eight, seventeen hundred and ninety-six, be, and the same hereby is, repealed.

SEC. 2. That the act entitled "An act to revive and continue in force certain parts of the "Act for the relief of American seamen, and to amend the same," approved March two, seventeen hundred and ninety-nine, be, and the same is hereby, repealed.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 131.

TREATY WITH SPAIN.

LETTER

FROM

THE SECRETARY OF STATE,

ADDRESSED TO

HON. N. P. BANKS, CHAIRMAN OF THE COMMITTEE ON FOREIGN AFFAIRS

RELATIVE TO

An alleged delinquency on the part of the United States in carrying into effect the concluding paragraph of the ninth article of the treaty of 1819, *between the United States and Spain.*

MARCH 15, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

DEPARTMENT OF STATE,
Washington, March 4, 1872.

SIR: I transmit a copy of correspondence between this Department and the Spanish minister here, relative to an alleged delinquency on our part in carrying into effect the concluding paragraph of the ninth article of the treaty of 1819, between the United States and Spain. The claims of Spanish officers and inhabitants therein referred to having been required to be established by process of law, Congress, on the 3d of March, 1823, passed an act authorizing the judges of the superior courts at Pensacola and Saint Augustine, respectively, to adjust claims of that character, and decisions in favor of claimants, to be reported to the Secretary of the Treasury, who, however, was allowed a discretion as to paying the amounts found due to the claimants by the judges referred to. It is understood that the principal of the sums awarded to the claimants by the judges has, perhaps, in every case been paid, but that the Secretary of the Treasury has refused to pay the interest allowed.

How far, if at all, the act of Congress which has been mentioned may have deviated in substance and in spirit from the text of the treaty in allowing a discretion of that character to a mere ministerial officer of this Government, seems to be a question.

From the lapse of time since the claims originated they have been a subject of much discussion in various branches of the Government. They have frequently engaged the attention of Congress, and have sometimes been reported on adversely, but the number of favorable reports is greater.

The subject is consequently commended to your consideration, and that of the committee of which you are chairman.

A convenient and useful summary of the whole subject may be found in Report C. C., No. 127, first session Thirty-fifth Congress, entitled "Robert Harrison."

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
Chairman of the Committee on Foreign Affairs,
House of Representatives.

Inclosures.

1. Mr. Roberts to Mr. Fish, October 22, 1869.
2. Mr. Carlisle to Mr. Roberts, October 26. 1870.
3. Mr. Roberts to Mr. Fish, November 14, 1870.
4. Mr. Fish to Mr. Roberts, March 8, 1871.
5. Mr. Fish to Mr. Roberts, June 15, 1871.
6. Mr. Roberts to Mr. Fish, February 15, 1872.

No. 1.

Mr. Roberts to Mr. Fish.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to call the attention of the honorable Secretary of State of the United States to the unsettled claims of Spanish subjects, adjudicated by the courts of the United States, in virtue of the provisions of the last clause of the ninth article of the treaty of 1819 between the two nations.

After such long and repeated postponements, the surviving claimants, and the representatives of those who are no longer living, are naturally impatient, hoping for the fulfillment of the judicial orders given in their favor by the proper tribunals of the United States, and of which it appears that very few have thus far been fulfilled.

In order to assist in a just and equitable settlement of this matter, on the part of the honorable Secretary of State, the undersigned sends him herewith, for his information, a report which has been drawn up by the counselor of the legation of Spain at Washington.

The undersigned has the honor to repeat to the honorable Secretary of State of the United States the assurance of his highest consideration.

MAURICIO LOPEZ ROBERTS.

The honorable SECRETARY OF STATE OF THE UNITED STATES.

WASHINGTON, *October* 22, 1869.

No. 2.

Mr. Carlisle to Mr. Roberts.

SIR: I have carefully considered the question of the sufficiency of the existing appropriations made by the act, passed by Congress, "to

carry into effect" the ninth article of the treaty of 1819, to authorize the Executive to pay the residue of the decrees made by the United States judges in favor of the claimants, and I can find no legal ground to question the sufficiency of the existing appropriation to authorize the Executive to make such payment; nor can I find that the sufficiency of the appropriation to carry this article of the treaty into full effect has ever been questioned. On the contrary, I find it has been uniformly admitted by every Department of the Government, executive, legislative, and judicial, by which these claims have been considered.

The words of the act making the appropriation, in my opinion, exclude all possible doubt that it is, and was intended by Congress to be, as broad as the treaty and the favorable decrees of the judges.

The act of the 3d of March, 1823, (3d Stat. at Large, p. 768,) is entitled "An act to *carry into effect* the ninth article of the treaty of February 22, 1819, between the United States and Spain." The first section gives jurisdiction to the United States judges named or described, and authorizes them to receive, adjust, and adjudge. [In the act of June 26, 1834, the words are "receive, examine, and adjudge"—6th Stats., p. 569—and in the act of 3d March, 1849, 9th Stats., 788, "receive and adjudicate."] The said claims, agreeably to the provisions of the ninth article of the treaty with Spain, and the 2d section, direct that the decrees of the judges, when in favor of the claimants, shall be by the said judges reported to the Secretary of the Treasury, "who, on being satisfied that the same are just and equitable, within the provisions of the said treaty, shall pay the amount thereof to the person or persons in whose favor the same is adjudged, out of any money in the Treasury not otherwise appropriated."

The Secretary of the Treasury is thus not only authorized but expressly commanded to pay the full amount of the judges' decrees, on claims found to be within the provisions and obligations of the treaty. It is, therefore, in my judgment, too plain for question or argument, that the appropriation is limited only by the provisions and obligations of the treaty.

If it were necessary, I could show by official documents that this construction of the extent and sufficiency of the existing appropriation has been sanctioned by all the Departments of the Government, as above stated; and that a petition to Congress by one of the claimants for additional legislation to authorize the payment of the residue of the judges' decree, was dismissed upon the ground that the existing law was sufficient for that purpose and was intended to carry the treaty into full effect; and that "no additional legislation was [is] necessary;" but all these authorities are well known to the present able judicial officer of the State Department, as fully appears by his unanswerable report on this subject to Mr. Secretary Seward, by whom that report was approved and sent to the Secretary of the Treasury for the "final disposition of these claims by Executive action."

Should you, however, desire the production of these documentary authorities, on a question so free from difficulty, I will collect them, though I think, on an examination of the unequivocal language of the statute, it will be found unnecessary.

I will only add at present, that the appropriation made by the above-named act of 3d March, 1823, being "permanent and indefinite," and also for the payment of a portion of the "public debt," due under the sanction of the treaty faith of the United States, is expressly recognized and continued in force by the 5th and 6th sections of the legislative,

executive, and judicial appropriation act, approved 12th July, 1870. (Stats. at Large for 1869–'70, page 251.)

I have the honor to be, sir, your most obedient servant,

J. MANDEVILLE CARLISLE,
Consul, &c., &c.

To his Excellency Don MAURICIO LOPEZ ROBERTS,
Minister of Spain, &c., &c.

WASHINGTON, *October* 26, 1870.

No. 3.

Mr. Roberts to Mr. Fish.

WASHINGTON, *November* 14, 1870.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, begs the honorable Secretary of State to be pleased to inform him with regard to the state in which are the claims pending in consequence of article ninth of the treaty of 1819; for the legation of Spain not having had the honor to receive any reply to the communications which it has addressed, at various times, to the Department of State, would thank Mr. Hamilton Fish to state what he may think proper with regard to said claims.

The undersigned takes the liberty of calling the attention of the honorable Secretary of State to the claims in question, which have been definitely settled by the decision of the judges appointed by the Government of the United States "to receive, examine, and adjudge the same, agreeably to the provisions of the said treaty," which treaty in both cases or versions declares that the claims shall be "judicially established," pledging the United States to the payment of the sums established in this form. The obligation of the Government of the United States to pay the residues of these judgments is peremptory, according to the terms of the treaty, and the decisions of the judges according to article ninth of the treaty of 1819 are therefore of the same nature and have the same legal force as the awards of the commissioners according to the treaty of 1834.

The undersigned was under the impression that the appropriation made by Congress in order to carry out the provisions of the aforesaid article, was limited to the fulfillment of the obligations contracted in the treaty, and as the question of sufficiency (of the existing appropriation) to authorize the payment of the residues of the judgments rendered by the judges involves a legal point, he has thought proper to consult in relation to the matter the counsel of the legation, and annexed he has the honor to send the original report made by him, as the legal deductions and references to the acts or laws approved by Congress which it contains may be of some utility for the just and equitable settlement which is desired.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

The Hon. SECRETARY OF STATE
of the United States, &c., &c., &c.

No. 4.

Mr. Fish to Mr. Roberts.

DEPARTMENT OF STATE,
Washington, March 8, 1871.

SIR: Recurring to your notes of the 22d of October, 1869, and the 14th of Novembr, 1870, relating to certain claims of Spanish subjects, arising under the ninth article of the treaty of February 22, 1819, between the United States and Spain, it becomes my duty to make the following statement:

As early as December, 1836, a claim identical in principle with those you have presented was submitted to the then Secretary of the Treasury, and was disallowed by him. I will not enter into the question whether that decision was correct or erroneous, for the precedent has been so often and so long permitted to control the disposition of other claims under the ninth article of the treaty of 1819, as to preclude the executive branch of this Government from disregarding or reversing it.

The judicial branch has declared itself incompetent to deal with the subject. It has thus become a practical necessity of administration to await further legislation by Congress, before taking any fresh action in relation to these claims.

Accept, sir, the renewed assurances of my very high consideration.

HAMILTON FISH.

Señor Don M. LOPEZ ROBERTS,
&c., &c., &c.

No. 5.

Mr. Fish to Mr. Roberts.

DEPARTMENT OF STATE,
Washington, June 15, 1871.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Señor Don Lopez Roberts, envoy extraordinary and minister plenipotentiary of Spain, dated June 13, 1871, accompanied by an opinion of the counsel of the Spanish legation, given upon a note which the undersigned had the honor to address to his excellency Mr. Lopez Roberts, on the 8th of March last, relative to certain claims alleged to exist under article 9 of the treaty with Spain, of 22d of February, 1819.

Premising that the undersigned, without now stopping to discuss the point, cannot assent to the opinion expressed by Mr. Lopez Roberts, that in the note of the 8th of March, "the justice of the said claims is admitted, and the sufficiency of the existing laws and appropriations for their payment is not called in question," he has the honor to say that the very able argument of the learned counsel, in his examination of "the rules and principles which should govern the Treasury Department," has failed to convince the undersigned that the long-established practice and habit of the Government should be or can be changed to meet the views of the learned counsel, as to what rules or principles should govern in any one of its Departments.

The undersigned is therefore obliged to adhere to the opinion ex-

pressed in his note of the 8th of March last, that it is a practical necessity to await further legislation by Congress, before any action can be taken in relation to the claims in question.

The undersigned avails himself of this occasion to offer to Mr. Lopez Roberts the renewed assurances of his very high consideration.

HAMILTON FISH.

Señor Don M. LOPEZ ROBERTS,
&c., &c., &c.

No. 6.

Mr. Roberts to Mr. Fish.

WASHINGTON, *February* 15, 1872.

The undersigned, minister of Spain, has the honor to remind the honorable Secretary of State of the contents of his two notes of the 8th of March and 15th of June last, in which, referring to those addressed to him by the undersigned on the 22d of October, 1869, and the 14th of November, 1870, in relation to the unsettled claims arising from article 9 of the treaty concluded between Spain and the United States, on the 22d day of February, 1819, he stated that it was a "practical necessity for the administration to await further legislation by Congress, before taking any fresh action in relation to these claims."

The undersigned begs the honorable Secretary of State, in view of the fact that, according to his aforesaid notes, he thinks further legislation by Congress in relation to these claims necessary, to be pleased, in accordance with custom, and in such form as he shall think best calculated to promote the attainment of the desired end, to lay this matter before the Congress of the United States, together with all the papers relating to it, in order that the legislative action may be taken which he considers necessary for its final settlement.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

The Hon. SECRETARY OF STATE OF THE UNITED STATES.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 132.

HARBOR OF SUPERIOR.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

RELATIVE TO

The harbor of Superior, and statement of the most unwarrantable interference of certain persons with a controversy pending between the State of Wisconsin and certain citizens of Du Luth.

MARCH 18, 1872.—Referred to the Committee on Commerce and ordered to be printed.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

The memorial of the legislature of the State of Wisconsin respectfully represents:

That the bay and harbor of Superior is a widening of the Saint Louis river, navigable, and situated on the boundaries between Minnesota and Wisconsin; that no material change had taken place in the harbor since 1823, in which year a chart of it was prepared by Captain Bayfield, of the British army.

That up to 1868 there was at all times not less than nine feet of water on the bar. That the entry of the bay of Superior, at the mouth of the Saint Louis River, is the natural channel of communication between Lake Superior and said bay, the latter being an immense natural harbor, having a frontage of many miles in each of the States of Wisconsin and Minnesota, and perfectly available, by way of said entry, for the commerce of Du Luth, in Minnesota, and of Superior, in Wisconsin.

That the United States Government works now in progress were commenced in 1868, for the improvement of said entry, and will, when completed, insure a channel between said harbor and the lake, easy of access, safe, and of adequate depth for the passage of the largest vessels navigating the lakes, unless the proper effect of such works shall be defeated by the present diversion of the waters of the Saint Louis River from their natural channel at such entry, to another, by an artificial outlet.

That the theory and plan of said Government works are based upon the combined and undiminished flow of the Saint Louis and Nemadgi Rivers through said entry, whereby the formation of a bar (which re-

sults from the wash of the lake, and not from the sediment of the stream,) will be prevented.

The United States Government engineers, officially familiar with the situation, have explicitly declared that disastrous consequences would result from the opening of an artificial channel through Minnesota Point, of sufficient depth for the passage of lake craft, as projected by the city of Du Luth.

That in April, 1871, the city authorities of Du Luth, Minnesota, engaged in cutting a canal of extraordinary width and depth through Minnesota Point, nearly seven miles from the Government piers, at the entry, in order to connect the upper end of the bay of Superior with the lake.

That such canal has since been partially completed, and has already drawn down the head of water in the bay, and is destroying the utility of the Government works at the entry.

That the Government engineers in charge of the works at the entry of their harbor protested against the cutting of said canal.

That work on said canal was prosecuted with full notice on the part of the city of Du Luth that, in the opinion of the United States engineers, the opening of such canal would injuriously affect the natural entry, and defeat the objects of the Government improvement at that point.

That the interests of the citizens of Wisconsin are prejudiced, and their vested rights infringed, by any cause which permanently renders more difficult the navigation of the "entry," the natural channel of communication between the bay and the lake. And the declarations of the Government engineers have been abundantly justified by the effects which have followed the actual opening of a canal at Du Luth through Minnesota Point, during the last summer. Almost immediately a remarkable shoaling took place at the natural entry, preceded by no cause that would account for it, except the opening of said canal; and further, the actual filling up of the natural entry between the piers, now in course of construction by the General Government, has utterly precluded ingress or egress of craft owned and now lying in the harbor of Superior.

That within the present year a suit was commenced by the United States, in the circuit court of the United States, against the city of Du Luth and others, to restrain the construction of said canal, on the ground that the same, as declared by the War Department, was injurious to interests at the entry, which Government was bound to protect.

That the interests of Wisconsin and the people of Superior in said suit was recognized by the Government, by engaging Hon. Matt. H. Carpenter, the advocate of that interest, to appear in said suit as counsel for the United States, and on the retainer of the State of Wisconsin.

That upon a motion made in said suit before Judge Miller, at Topeka, the defendant, the city of Du Luth, appearing and strenuously opposing, upon the merits of the case as exhibited by affidavits read on both sides, a provisional injunction was granted, restraining the defendants from further prosecuting the work on said canal, thus justifying the Government's action in the matter, and sustaining its claim that the injury resulting to the entry from the canal was constant and imminent, and such as to demand the immediate discontinuance of the work upon the latter.

That thereupon the attorney for the city of Du Luth repaired immediately to Washington, and there, in company with Mr. Jay Cooke, made application to some bureau of the War Department to have said

injunction suspended, upon the execution by the city of Du Luth of a bond to the United States in the penal sum of $100,000, conditioned that said city should, on or before the first day of December, 1871, build a dike across the bay of Superior, from Rice's Point to Minnesota Point, and should also complete the said canal.

That said application was entertained without any notice of the same having been given to any person in Wisconsin, whose rights and interests were most gravely involved in the proposed action of the Department, and, so far as we are informed, without any notice to any attorney or counsel concerned for those rights and interests.

That said application was at once granted, and an order from the Department issued, directing that said injunction be suspended, upon the execution by the city of Du Luth of the bond aforesaid.

That this action of the War Department (and we so declare with entire respect for its high functions and authority) has ever been regarded, by the people of Wisconsin familiar with the case, as an oppressive and unwarrantable grievance, which the officers of the Government would not wantonly inflict, and which could only come from a misapprehension of the situation as regards the various interests concerned for the integrity of the harbor system at the head of Lake Superior.

That the construction of such dike across the bay of Superior is an outrage, equally as indefensible, equally as violative of private rights, and subversive of public interests, as the canal itself; and yet, under color of the supposed authority of said arrangement with said Jay Cooke and the city attorney of Du Luth, the city of Du Luth has been and still is engaged in an attempt to construct, professedly pursuant to said bond, an obstruction to navigation, called a dike, across the bay of Superior, on a line distant nearly two miles below the said canal, where the same, if completed so as to answer the requirements of the bond, will permanently obstruct an already important and rapidly increasing commerce on the bay of Superior, between Superior and Du Luth, and will operate as a barrier to the convenient access of the people of Superior to the Northern Pacific, and Lake Superior and Mississippi Railroads, at Du Luth—railroads that would not have been in existence to-day but for the munificent land-grants given by the whole people to aid in their construction, and which, therefore, we cannot recognize the right of any one practically to shut out from any portion of the people.

That steamers and vessels owned at Superior, that have for years been employed in trade to and from this port, can now neither enter nor depart from the harbor, while boats owned at other ports, which have for years sailed to and from Superior, are now wholly excluded from the harbor by reason of cutting this canal.

That these acts complained of, so far as they have received any assent or countenance from any officer of the War Department charged with the management of harbor interests at the head of Lake Superior, involve a direct departure from the plans and methods officially recommended by the officers of that Department. (See letter of the Secretary of War, communicating, in compliance with a resolution of the Senate of January 28, 1870, the report of the Chief of Engineers upon the survey of the harbor of Du Luth, at the head of Lake Superior.)

That the reported recent introduction of a bill in the United States Senate, enlarging the powers and authority of the Secretary of War over harbors and rivers, proposes to delegate unusual authority over these important interests that should be retained exclusively by Congress.

That if it become a law, the material interests of Wisconsin are liable to be permanently injured by *ex parte* statements, as has been

already done by misrepresentations made to the honorable Secretary of War.

That the people of Wisconsin are willing to trust and to respect the legitimate and impartial agencies of the General Government, but are not willing that their rights and interests shall be summarily disposed of and set aside upon the suggestion or persuasion of any individual not having lawful jurisdiction over them, however exalted as to wealth or station he may be.

That the above-mentioned encroachments upon the harbor of Superior have been persisted in against law and the constant protest of the people of Wisconsin most seriously affected thereby, and amount clearly to acts of war, which, if committed by a foreign power, this State could not submit to without degradation and disgraceful betrayal of its subjects.

That if, consistently with the relations which bind the States, under the Constitution of the United States, we are denied that mode of redress which such hostile acts invite as between independent States, it must be because in the powers and obligations of the General Government some compensatory provision resides, which should be called into exercise in an exigency like the present.

Your memorialists therefore respectfully and urgently ask that Congress will, by proper enactments, immediately provide for the filling up of the artificial canal at Du Luth, and for removing the dike (or so much of the same as has been constructed) in the bay of Superior, and for the prevention, under adequate penalties, of any future outrages of like character.

DANIEL HALL,
Speaker of the Assembly.
CHAS. G. WILLIAMS,
President of the Senate, pro tem.

Approved March 7, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 133.

HARBOR AT PORT WASHINGTON.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

ASKING FOR

Appropriation for improvement of the harbor at Port Washington, in said State.

MARCH 18, 1872.—Referred to the Committee on Commerce and ordered to be printed.

To the honorable the Senate and House of Representatives in Congress assembled:

The memorial of the legislature of the State of Wisconsin respectfully represents, that the statement in the memorial of the legislature of this State, approved April 9, 1867, and February 17, 1871, and published in the volume of General Laws passed that year, on page, 221, and also of the General Laws passed approved February 17, 1871, and published on pages 276 and 277, is a statement of facts as they existed then, and as they now exist.

Your memorialists would earnestly solicit your attention to those memorials.

Your memorialists would further state to your honorable body that the harbor at Port Washington has already opened to profitable use for the short time it has been used, having only expended thirty thousand dollars received from the United States Government, and fifteen thousand dollars given by said town; and during the year 1871, in the months of September and October, there have been seventy-two arrivals and departures. The work on said harbor had not sufficiently progressed to admit vessels before that time.

The depth of water at present is an average of six feet, protected by cribs. (See United States Engineer's Report of 1871.)

It would not only throw away the money already expended to grant no further appropriation, but would work a wrong to those who have thus voluntarily contributed on the faith that the Government would carry on a work that it had already begun.

And your memorialists will ever pray.

DANIEL HALL,
Speaker of the Assembly.
M. H. PETTIT,
President of the Senate.

Approved March 9, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 134.

CUSTOM-HOUSE AND POST-OFFICE AT SAINT JOSEPH, MISSOURI.

RESOLUTION

OF

THE LEGISLATURE OF MISSOURI,

ASKING

Congress for an appropriation for a post-office and custom-house at Saint Joseph, Missouri.

MARCH 18, 1872.—Referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Whereas the city of Saint Joseph is the center of business for a large section of country, consisting of Northwestern Missouri, Southwestern Iowa, Southern Nebraska, and Northern Kansas, together with a heavy mountain trade, with all of which she has free and easy intercourse, by reason of her railroad system; and whereas by reason of her railroad system she becomes a great central position in the distribution of the mails and commerce of the country; and whereas the centers of trade and travel naturally suggest the right points for the establishment of such judicial departments as are needed by the country; and whereas, for the convenience of commerce, it is the practice of the Federal Government to establish custom-houses in accessible points: Therefore,

Be it resolved by the senate, (*the house of representatives concurring therein*,) That our Senators be instructed, and our Representatives be requested, to secure an appropriation from the Federal Government sufficient for the erection of a building large enough for a custom-house, post-office, and United States circuit and district court rooms; and

Be it further resolved, That a copy of this preamble and resolution be forwarded to each member of the Senate and the House of Representatives from Missouri.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 135.

PORT OF ENTRY—SAN DIEGO.

RESOLUTION

OF

THE LEGISLATURE OF CALIFORNIA,

RELATIVE TO

Making San Diego a port of entry.

MARCH 18, 1872.—Referred to the Committee on Commerce and ordered to be printed.

STATE OF CALIFORNIA, *Department of State:*

I, Drury Melone, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of assembly joint resolution No. 23, passed the assembly February 23, 1872, passed the senate February 24, 1872, now on file in my office.

Witness my hand and the great seal of the State, at office in Sacramento, California, the 7th day of March, A. D. 1872.

[SEAL]

DRURY MELONE,
Secretary of State.
By H. H. RUSSELL,
Deputy.

JOINT RESOLUTION relating to making San Diego a port of entry.

Resolved by the assembly of the State of California, (the senate concurring,) That our Senators in Congress be instructed, and our Representatives requested, to use all proper efforts to have the city of San Diego declared and made a port of entry under the laws of the United States.

Resolved, That his excellency the governor be, and is hereby, requested to transmit a copy of this resolution to each of our Senators and Representatives in Congress.

T. B. SHANNON,
Speaker of the Assembly.
R. PACHECO,
President of the Senate.

Assembly joint resolution No. 23, passed the assembly February 23, 1872.

M. D. BORUCK,
Clerk of the Assembly.

Passed the senate February 24, 1872.

ROBERT FERRAL,
Secretary of the Senate.

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 136.

REFUNDING THE COTTON TAX.

JOINT RESOLUTIONS

OF

THE LEGISLATURE OF KENTUCKY,

REQUESTING

Congress to refund to the people of the cotton-growing States the amount of tax on cotton collected from them during the years 1865–'66–'67.

MARCH 19, 1872.—Referred to the Committee of Ways and Means and ordered to be printed.

Whereas the tax upon cotton, levied and collected by the Government of the United States during the years eighteen hundred and sixty-five, eighteen hundred and sixty-six, and eighteen hundred and sixty-seven, was, in our judgment, most unjust and oppressive to the people of the cotton-growing States, in that it was a direct tax upon industry, and imposed upon them at a time when they were prostrated and impoverished by war and the attendant consequences; and whereas the people of those States have, through their respective legislatures and chambers of commerce, petitioned the Congress of the United States to authorize the refunding of this tax; and whereas we believe the refunding of this, an unequal tax, levied, as it was, on the industry of a minority of the States, to be only a matter of even-handed but tardy justice to those with whom the people of this State are identified, as well by ties of blood as by common interest: Therefore, be it

Resolved by the general assembly of the Commonwealth of Kentucky, That we do most respectfully and earnestly memorialize the honorable the Congress of the United States to pass a law refunding to the people of the cotton-growing States the amount of taxes collected on cotton during the years eighteen hundred and sixty-five, eighteen hundred and sixty-six, and eighteen hundred and sixty-seven.

Resolved, That the governor is hereby authorized and requested to transmit a copy of this memorial to the Congress of the United States through our Senators and Representatives therein.

JAMES B. McCREARY,
Speaker of the House of Representatives.
JOHN G. CARLISLE,
Speaker of the Senate.

Approved December 16, 1871.

P. H. LESLIE.

By the governor:
A. J. JAMES, *Secretary of State.*

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 137.

INDIANS RESIDING IN MICHIGAN AND INDIANA.

[To accompany H. Res. —, first session 42d Congress.]

SUPPLEMENTARY MEMORIAL

OF

CERTAIN INDIANS

RESIDING

In Michigan and Indiana.

MARCH 19, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, appointed a committee by that portion of the Pottawatomies remaining in Michigan and Indiana, present to Congress the condition of the annuities and other funds heretofore granted by the Government to them, and to show the amounts of the same now remaining due and unpaid, most respectfully represent:

That their cause rests directly upon the stipulations and provisions of treaty concluded at Chicago on the 27th day of September, A. D. 1833, between the Government of the United States and the said Pottawatomie Nation of Indians, (the same being supplementary to that of September 26, 1833.) (See vol. 7, United States Statutes at Large, p. 442.)

It appears by the caption of said treaty that your memorialists are fully identified as belonging to said Pottawatomie Nation of Indians, which said caption reads:

> Articles supplementary to the treaty made at Chicago, in the State of Illinois, on the 26th day of September, 1833, between George B. Porter, Thomas J. V. Owen, and William Weatherford, commissioners on the part of the United States, of the one part, and the united nation of Chippewa, Ottawa, and Pottawatomie Indians, concluded at the same place on the 27th day of September, 1833, between the said commissioners on the part of the United States, of the one part, and the chiefs and head-men of said united nation of Indians residing upon the reservations of land situated in the Territory of Michigan, south of Grand River, of the other part.

It appears by the second article of said treaty that your memorialists are expressly declared as being fully entitled to participate in all of the treaty provisions of the Pottawatomie Nation of Indians, which said article reads:

> ARTICLE 2. In consideration of the above cession it is hereby stipulated that the said chiefs and head-men, and their immediate tribes, shall be considered parties to the said treaty, to which this is supplementary, and be entitled to participate in all the provisions therein contained as a part of the united nation; and, further, there shall

be paid by the United States the sum of one hundred thousand dollars, ($100,000,) to be applied as follows:

The remainder of the article, in four clauses, awards $10,000 to satisfy those who asked for individual reserves; $25,000 to pay outside debts of the nation; $25,000 in goods; and $40,000 in $2,000 payments for twenty years.

It appears by the article of said treaty, on page 445, that your memorialists are expressly exempted from moving west of the Mississippi, and in expressed terms of the treaty, in the clearest and most positive language, fully guaranteed in the payment of their just proportion of all former annuities, and that arising from the sale of these reserves upon which they were then residing. No force can be gained by lengthy comment upon this article, which reads:

On behalf of the chiefs and head-men of the United Nation of Indians who signed the treaty to which these articles are supplementary, we hereby, in evidence of our concurrence therein, become parties thereto.

And as since the signing of the treaty a part of the band residing on the reservations in the Territory of Michigan have requested, on account of their religious creed, permission to remove to the northern part of Michigan, it is agreed that in case of such removal the just proportion of all annuities payable to them under former treaties, and that arising from the sale of the reservation on which they now reside, shall be paid to to them at L'Arbre Croche.

It appears by the letter of R. Stuart, esq., then agent and superintendent of Indian affairs at Detroit, Michigan, they received nothing from the Government in compliance to this last-cited article of the said treaty, and that it was then estimated that your memorialists, then residing in Northern Indiana and Michigan, numbered some two hundred or two hundred and fifty.

The following is a copy of an extract of said letter as furnished by the Indian Bureau, and inserted in report of the Commissioner of Indian Affairs, No. 111, United States Senate, second session, Thirty-eighth Congress:

Extract from a letter of Robert Stuart, acting superintendent of Indian affairs, dated at Detroit, March 25, 1843, and directed to Hon. T. Hartly Crawford, Commissioner of Indian Affairs.

A delegation of the Pottawatomies, who resided on the reservation in Michigan prior to the treaty held at Chicago in 1843, and who have always refused to emigrate, called upon me a few weeks since to represent their grievances also. They stated that the chief, Pokagon, (father of one of them,) as also several of his band, were Catholics at the time of signing the treaty, and refused to emigrate west, as it would cause them to recede again into barbarism. That permission was granted them by said treaty to settle in Northern Michigan, where they would enjoy the instruction of priests, and receive their proportion of the annuities; that they, in due time, applied to the Ottawas of L'Arbre Croche, near Mackinac, for permission to amalgamate with them, which, owing to the interference of some evil-disposed whites, was refused; that they then purchased lands of the United States, which a portion of them still occupy, (except forty acres appropriated to their mission.) They urgently plead that the Department take their cause into favorable consideration, and allow them a just proportion of the annuities (which are now all paid on the Missouri) according to the stipulation on the 599th and 600th pages of the treaty-book. They say that there are from two hundred to two hundred and fifty of their tribe still in Northern Indiana and Michigan. A number of these, as well as the Ottawas, are very desirous of becoming citizens, and there are some hundreds, I have no doubt, worthy of the boon; but how their application will be responded to is another question. I regret the necessity of troubling you with so many questions as have of late been pressed upon me, but the paucity of information left in the office by my predecessor renders it indispensable for me to know what course of policy has or should be adopted.

I am, respectfully, your obedient servant,

ROBERT STUART,
Acting Superintendent Indian Affairs.

(NOTE.—It will be seen by the letter of the Second Auditor, page —,

that 253 of your memorialists participated in their award of annuities in 1843.)

It appears that the Hon. T. Hartley Crawford, then Commissioner of Indian Affairs, awarded your memorialists $1,587 50 as their just proportion of the $16,000 perpetual annuity of treaty of July 29, 1829, and the $2,000 of treaty of the 27th of September, 1833, which award, as thus made, included but one of the former annuities, when the treaty explicitly reads "their just proportion of all former annuities."

The following is the copy of the said letter of the honorable Commissioner making this award, as the same appears in the Senate report above cited:

OFFICE INDIAN AFFAIRS, *May* 17, 1843.

SIR: My letter to you of the 19th instant informed you of the views of this office respecting the right of the Chippewas of Swan Creek and Black River, yet in Michigan, to participate in the benefits of the annuity due the bands, the whole of which has heretofore been remitted west.

I now reply to the remaining portion of your letter of the 25th March, viz, relative to the Pottawatomies, who claim the privileges granted under the supplemental article to the treaty with the united bands of Chippewas, Ottawas, and Pottawatomies, of September, 1863, which is in the following words:

"And as since the signing of the treaty a part of the band residing on the reservations in the Territory of Michigan have requested, on account of their religious creed, permission to remove to the northern part of the peninsula of Michigan, it is agreed that, in case of such removal, the just proportion of all annuities payable to them under former treaties, and that arising from the sale of the reservation on which they now reside, shall be paid them at L'Arbre Croche."

By the tenor of this article it would seem that their claim is well founded, and that they are entitled to their numerical proportion of those annuities payable to the tribe under the treaty of 1829, and also under the supplementary article of the treaty of 1833, amounting together to $18,000. Therefore, estimating the number of the Chicago Indians at 2,834, including the 250 represented by you, the share that would be to the latter would amount to $1,587 50, or $6 35 to each individual. Accordingly that sum will be remitted to you, to be paid out to them as their share of the annuities.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD,
Commissioner.

ROBERT STUART, Esq.,
Detroit, Michigan.

It will be noticed that the honorable Commissioner made the award upon the data of 2,834 Pottawatomie Indians, including 250 of your memorialists, which is considered by him as the just proportion, the same being as 250 is to 2,834, or .0882 +, decimal portion being within a small fraction of one-ninth of thewhole.

It appears that the honorable Commissioner made a mistake in not allowing your memorialists their proportions thus justly determined in all of the annuities of treaties concluded prior to September 26, 1863, instead of only one of them, as the treaty plainly says "all," &c.

In confirmation of this statement, if it should be considered essential to present any, we are happy to be able to cite the most eminent authority.

The Hon. Caleb B. Smith, then Secretary of the Interior, in his report to Congress, dated December 19, 1862, in compliance to act of March 2, 1861, requesting him to state what amount, if any, was then due your memorialists, reported $192,850 as due the same, and says:

The band which, by supplemental treaty, was permitted to remain in Michigan must be regarded as a part of the Pottawatomie Nation. They are entitled to receive, *per capita*, their proportion of the annuities and other payments provided for in the several treaties with the nation to the same extent they would have been had they gone west with the tribe. (See Ex. Doc. 19, H. R., 31 sess., 37th Cong.)

Upon a full report the Committee on Indian Affairs of the House of Representatives unanimously reported favorably, and recommended

the passage of a joint resolution allowing your memorialists $192,850, (which amount did not include the present cash value of the perpetual annuities, or those arising from the sale of their reserves.)

February 9, 1864, Mr. Windom, chairman of Committee on Indian Affairs of House of Representatives, made a report of the committee favoring the claim, (Report No. 19, House of Representatiues, first session Thirty-eighth Congress,) accompanied by House resolution 38, (joint resolution,) appropriating $192,850 to your memorialists, which passed the House.

In the report of the Committee on Indian Affairs of the Senate upon the matters of this joint resolution is the following decision, which your memorialists accept as just and correct, and upon which they now base their claim for full, just, and final settlement, asking only that the principles of the same be faithfully applied in connection with the proceeds of the sale of their reserves, and the capitalization and payment of the present value of their perpetual annuities, as hereinafter presented.

The decision of the said committee is in these words:

While your committee agree with the committee of the other House that Commissioner Crawford, by mistake, failed to carry out the principle adopted by him, by giving them, in fact, their just proportion of all annuities under former treaties, and under the supplemental treaty of Chicago, and that it is just that such principle should now be applied, and that they should now receive their just proportion of annuities under all the treaties in which they had shared, as well as the annuities under the treaty of 1829, and supplemental treaty of 1833, they are at the same time decidedly of the opinion that the only just construction to be given to that supplementary article is that, in case they did not remove with the nation west, they were entitled to share in the annuities only." (See p. 4, Rep. Com. No. 111, Senate, 2d sess., 38th Congress.)

This $192,850, it will be seen by examination of the reports cited, included the distributive share of the mills and educational funds of the treaty of 26th September, 1833, and the proceeds of the sale, by treaty of 1846, (vol. 9, p. 85, 3 United States Statutes,) of the 5,000,000-acre tract in Iowa. They were not former treaties.

Had we removed west with the main nation we should have participated under all of the treaties equally; but as we desired to and did remain under the provisions of the supplementary articles of the 27th September, we justly concede to the main nation all the direct and consequential benefits of the treaty of the 26th September, and maintain that all the benefits of the treaty of 27th September are exclusively ours upon remaining in Michigan.

It will be observed that the treaty of the 26th of September provides for $630,000 to be paid the main nation in lieu of reserves asked by the Indians, payment of their debts, and an annuity of $14,000 for twenty years, while the supplementary articles allow your memorialists $100,000 for the corresponding items; (see pages 432 and 442, v. 7, U. S. Stat.;) which, in connection with our just proportion of the old annuities, and that arising from the sales of our reserves, were evidently intended as our just distribution in the event we elected to remain in Michigan, which we did, and present our claim for a fair settlement on that basis.

It appears that your memorialists went to (L'Arbee Croche) L'Arbre Croche, returned, and purchased lands of the United States in the vicinity of their former reserves. These facts, and their just and legal effect, can be no better stated than by quoting at length from the report of the Senate committee, before referred to:

It seems, from evidence before the committee, they attempted to make some arrangement with the Indians there, (at L'Arbre Croche,) but, for some reason, and probably from their own dissatisfaction with the country there, they returned with Pakagon and purchased some lands of the United States, upon which they have since

resided. It is true the treaty required them to "remove to the northern part of the peninsula," and, "in case of such removal," their proportion of the annuities should be paid at L'Arbre Croche, and they have not strictly complied with its terms.

But the committee think that the United States, on their part, have waived a strict fulfillment, by allowing them to purchase and take the title in fee-simple to another portion of the public domain in Michigan, where they have since resided, and that they are, notwithstanding entitled to their just proportion of all annuities payable to them under former treaties, &c., &c.; besides, the action of the Department (citing Commissioner Crawford's letter) confirms this view of the committee. It is a clear acknowledgment that their rights to their just proportion of annuities was not forfeited by reason of their not removing to the northern part of Michigan. (See Rep. Com., Senate, 2d session 38th Congress, p. 1.)

It appears that the $1,587 50 was annually paid to us from 1843 to 1865 inclusive, twenty-three years, and that in accepting it our people gave receipts for their share of only one of the former annuities, being that of July 29, 1829. (See the following letter of the Second Auditor of United States Treasury :)

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
January 12, 1872.

SIR: In answer to your letter of the 5th instant, by which you ask to be informed "under and in conformity to what treaty stipulations the $1,587 50 were annually paid those Pottawatomie Indians remaining in Michigan, from 1843 to 1865 inclusive," I send herewith copies of three captions—in all of which the treaty stipulations are given—appearing on the several annuity pay-rolls for the period named by you, and on which the years are designated in red ink on the margins.

Respectfully,

E. B. FRENCH, *Auditor*.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
January 11, 1872.

This form of caption was on the pay-rolls from 1843 to 1865, both inclusive, excepting the years 1851 and 1865—(the above was written in red ink, &c.:)

"We, the chiefs, warriors, heads of families, and individuals without families of the Chippewa, Ottawa, and Pottawatomie tribes of Indians, within the agency of Michilimackinac, acknowledge the receipt from William A. Richmond, acting superintendent of Indian affairs, of fifteen hundred and eighty-seven dollars and fifty cents, in sums appended to our names, being our proportion of the permanent annuity due said tribes for the year 1846, under second article of the treaty of July 29, 1829, and second article supplementary to treaty of 26th September, 1833." (Voucher 5, set 5077, June 12, 1847.)

The form of the receipts given in the years 1851 and 1865 is substantially the same as the above, with the exception of the words "and second article supplementary to the treaty of September 26, 1833," which are not included in the same in form or substance. (See letters accompanying the papers.)

The following letter establishes the number of your memorialists who receipted for the $1,587 50 from 1843 to 1865 inclusive:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE.
May 4, 1871.

SIR: In reply to your letter of the 28th ultimo, asking for information relative to payments made by the United States as annuities, &c., to Pottawatomies of Michigan and Indiana since 1836, and also the number of Indians that receipted for said annuities, I have to state that the records of this office show that the Chippewas, Ottawas, and Pattawatomies of Michigan, within Mackinac Indian agency, were paid as follows:

In 1843, 253 Indians; 1844, 269; 1845, 217; 1846, 204; 1847, 244; 1848, 260; 1849, 260; 1850, 218; 1851, 229; 1852, 214; 1853, 219; 1854, 236; 1855, 236; 1856, 221; 1857, 229; 1858, 234; 1859, 253; 1860, 236; 1861, 235; 1862, 247; 1863, 246; 1864, 242; 1865, 232, for $1,587 50 each year, except in 1864, only $1,237 50, and in 1865 for $692 24, for the gold premium, and in 1866 230 receipted, in compliance to joint resolution, for the $39,000.

E. B. FRENCH,
Second Auditor.

W. N. SEVERANCE.

The treaties provide that these payments of annuities shall be made in specie. We have received our premium per cent. but once—in 1865—it then being $692 24 on the $1,587 50. We only would wish to state this fact without comment.

The Hon. F. A. Walker, present Commissioner of Indian Affairs, in answer to an inquiry directed to him by the Hon. Samuel S. Burdett, a member of the Committee on Indian Affairs of the House of Representatives, in relation to the present cause, under date March 2, 1872, after setting forth the facts and history of the case substantially as in the reports heretofore cited, says:

> No facts additional to those contained in the report made by the Commissioner of Indian Affairs in 1862, bearing on the rights and claims of these Indians, are now in possession of this office, nor have the views of the office upon the facts undergone any modification.

It thus appears, without an adverse opinion or question, that the treaties of the Government—which, it is needless to affirm, are the most pre-eminent, formal, solemn, and honored contracts known to our laws, with our people—the Bureau of Indian Affairs, the Department of the Interior, and both of the Committees on Indian Affairs of Congress have, after the most elaborate investigation, clearly decided and fully established the rights of your memorialists to their just proportion of all the annuity provisions of treaties concluded prior to September 26, 1833.

Preparatory to demonstrating what that just proportion is, we invite your attention to the following documentary evidence and the affidavits of some twenty-five of the most respectable, credible, and best informed witnesses in the case now living, who are now, and long have been, personally acquainted with your memorialists in their family, tribal, and national relations, many of them prior to 1833, and some of them nearly half a century.

By the name Pottawatomies, as used by your memorialists, is included all of those Indians styled Ottawas, Chippewas, and Pottawatomies, the Pottawatomies of the Prairie, of Miami and Eel Rivers, of the Wabash, of Indiana, and all who have united as a united nation of Indians in treating with the United States and sharing in common the proceeds of the sale of their common territory, which includes all Pottawatomies known in Indian history, save a small band, formerly residing on the river Huron, in Michigan, and designated as such, (see United States Stats., vol. 9, p. 853,) where the name Pottawatomie, where the abbreviated name is adopted, and their commonalty, past and future, established in treaty declarations.

Regarding the number of Pottawatomies, please note the following communications:

WASHINGTON, D. C., *January* 23, 1871.

DEAR SIR: I desire to learn the number of Pottawatomie Indians (now so called, being the united nation of Ottawas, Chippewas, and Pottawatomies) that complied with the treaty stipulations existing between them and the United States, and participated in the annuities of the same for the years 1836, 1841, 1846, 1851, 1856, 1861, and 1866.

If you have not the information in your office, will you please inform me when and from what source I may obtain the same?

Very truly, yours, &c.,

W. N. SEVERANCE.

Hon. E. S. PARKER,
Commissioner of Indian Affairs.

A true copy:

F. A. WALKER,
Commissioner.

And the reply of the honorable Commissioner:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 27, 1871.

SIR: I acknowledge the receipt of your letter of the 23d instant, in which you express a desire to "learn the number of Pottawatomie Indians (now so called, being the united nation of Ottawas, Chippewas, and Pottawatomies) that complied with the treaty stipulations existing between them and the United States, and participated in the annuities of the same for the years 1836, 1841, 1846, 1851, 1856, 1861, and 1866," and reply that the information desired is not in the possession of this office. I suggest that it may be obtained from the pay-rolls of the United States agents, in whose charge the Indians were at the different periods mentioned, which will doubtless be found filed with the accounts of such agents in the Second Auditor's Office of the Treasury Department.

Very respectfully, your obedient servant,

E. S. PARKER,
Commissioner.

W. N. SEVERANCE, Esq.
Washington, D. C.

A true copy:

F. A. WALKER,
Commissioner.

The following appears in the letter of the Hon. F. A. Walker, present Commissioner of Indian Affairs, before referred to:

Should it be desired, for the purpose of contemplated legislation, to determine the amount now (1872) due under either or both of the alternative calculations made the basis of the calculations of 1862, above referred to, I will say that the data are in possession of the Second Auditor's Office, and this office is, therefore, not in a position to bring the calculation up to date.

On the 11th instant the desired information was formally requested of the Second Auditor, in a letter setting forth the nature of the inquiry as shown above, using, however, the term "who *receipted* for the annuities," &c.

It was ascertained, upon examination of the pay-rolls, that chiefs and heads of families receipted for their dependencies, which were given in numbers in a column opposite their names, and so included in the footings; accordingly, on the 26th, the letter of the 11th was so modified as to require the "numbers who *received* the annuities," &c., to which inquiry the following response was received:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
January 26, 1871.

SIR: In compliance with request contained in your letter of the 11th instant, modified by that in letter of to-day, asking to be informed as to the numbers of Pottawatomie Indians who received annuities in the years 1836, 1841, 1846, 1851, 1856, 1861, and 1866, I send you the following list, made from the annuity pay-rolls on file in this office:

J. L. Jamison, agent, paid 3,764 persons in 1836; J. P. Simonton, 76, in 1836; A. S. Davis, 3,390, in 1841; R. B. Mitchell, 2,231, in 1846; J. R. Chenault, 3,914, in 1851; G. W. Clarke, 3,181, in 1856; W. W. Ross, 2,142, in 1861; L. R. Palmer, 2,202, in 1866.

Respectfully,

E. B. FRENCH,
Second Auditor.
By A. F. W.

W. N. SEVERANCE, Esq.,
133 *North A Street, Washington, D. C.*

The number of your memorialists residing in Michigan in 1843 (see Commissioner Crawford's letter) is stated at 250, but your memorialists are assured that in 1836 they numbered some 350; but assuming them to number 250 only in 1836, they have since 1843 steadily declined, and now number only 233.

About 1840 some twenty-three of your memorialists removed to their old hunting-grounds in Saint Joseph County, Indiana, where they have

since resided and steadily increased, and now number 89 souls, as is established by the evidence before referred to, to which your attention is now most respectfully invited.

Synopsis of affidavits relating to the number of Pottawatomie Indians permitted to remain in Michigan by virtue of treaty of September 27, 1833, now residing in Cass, Van Buren, and Berrien Counties, in the State of Michigan. (The original affidavits accompany the papers in the case.)

ROLL NO. 1, AFFIDAVIT NO. 1.

STATE OF MICHIGAN, *County of Cass, ss:*

A. J. Toposh, affiant, of Cass County, Michigan, testifies and says that he has personally visited the Indians whose names appear on the list attached to his affidavit, completing the same on the 9th January, 1871; that he is personally acquainted with them all, and personally knows them to be Pottawatomie Indians of the Pokagon band, who now reside in Cass, Van Buren, and Berrien Counties, Michigan, and have for the last thirty-five years, and that they number two hundred and thirty-three.

AUGUSTINE J. TOPOSH.

Subscribed and sworn to before me this 11th day of January, 1871; and I hereby certify that I am personally acquainted with A. J. Toposh, and know him to be a credible person, and that he makes oath that the foregoing statements made by him are true.

[SEAL.]

CHANCY T. LEE,
Notary Public, Cass County, Michigan.

ROLL NO. 1, AFFIDAVIT NO. 2.

STATE OF MICHIGAN, *County of Cass, ss:*

Elias S. Howard and Jacob Suitz, affiants, of Cass County, Michigan, being duly sworn, say that they are personally acquainted with most of the Indians whose names appear on the annexed lists; have read the statements of A. J. Toposh, and from facts within our personal knowledge are fully satisfied that the list and statements are strictly true and correct; have lived in the immediate neighborhood of these Indians for the past eighteen years, and had frequent dealings with them; are not interested in their claim.

ELIAS S. HOWARD.
JACOB SUITZ.

STATE OF MICHIGAN, *County of Cass:*

Personally appeared before me, the undersigned, a notary public for said county of Cass, Michigan, Elias S. Howard and Jacob Suitz, who signed the above, being personally known to me as credible persons, and, being duly sworn, upon their oaths stated the above statements made by them are true and correct.

[SEAL.]

CHANCY T. LEE,
Notary Public, Cass County, Michigan.

Attached to the above roll is the certificate, under seal and signature of Charles L. Morton, clerk of the circuit court of Cass County, Michigan, certifying that Chancy T. Lee is a duly-commissioned notary for said county, and that his signature appearing in the margin is genuine, &c.

Index and synopsis of affidavits relating to the Pokagon band of the Pottawatomie Indians residing in Cass and Berrien Counties, in the State of Michigan.

ROLL NO. 2, AFFIDAVIT NO. 3.

STATE OF MICHIGAN, *County of Cass, ss:*

(Page 1.) Edward Cowles, affiant, being duly sworn, says that since 1840 he has known old chiefs Pokagon and Topenubee, and many of their bands personally.

(Page 2.) Knew that the Indians were opposed to moving west of the Mississippi, and knew the attending circumstances of their removal, and the fact that the Pokagons were exempt from removal by the treaty of 1833, which distinguished them from the other bands.

(Pages 3 and 4.) List of 49 Indians of said band now residing in Cass and Berrien Counties, Michigan, who have resided there since 1843, ancestors and descendants.

EDWARD COWLES.

Subscribed and sworn to before me this 20th day of January, A. D. 1872.

SHAFFORD TRYON,
Notary Public in and for Cass County.

ROLL NO. 2, AFFIDAVIT NO. 4.

STATE OF MICHIGAN, *County of Cass, ss:*

(Page 5.) Eli S. Howard, affiant, being duly sworn, deposeth and says that he is aged forty-two years; resident of Cass County, Michigan, for the last eighteen years. I am well acquainted with the Pokagon band of Indians and Edward Cowles, and know him to be an honorable and credible person. I have carefully read his affidavit foregoing and attached, and personally know the number and names of said Indians, as set forth in said affidavit, is correct, and that they are actual residents of said counties and State. I have no interest in the claim.

ELIAS S. HOWARD.

Subscribed and sworn to before me this 20th day of January, 1872.

SHAFFORD TRYON,
Notary Public in and for Cass County.

ROLL NO. 2, AFFIDAVIT NO. 5.

STATE OF MICHIGAN, *County of Cass, ss:*

(Page 7.) Jacob Suits, affiant, being duly sworn, says that he is aged forty-three; thirty-six years a resident of Cass County. I am well acquainted with the Pokagon Indians and Edward Cowles, and know him to be a credible person; and after having carefully examined his affidavit, knows personally that the matters therein are true, and that the names and number of said Indians in said list is correct, and that they actually are residents of said counties and State; and that he has no interest in said Indians' claim, &c.

JACOB SUITS.

Subscribed and sworn to before me this 20th day of January, A. D. 1872; and he certifies that he knows the above affiants, Edward Cowles, Elias S. Howard, and Jacob Suits, to be respectable citizens, entitled to credit, being credible persons, &c.

SHAFFORD TRYON,
Notary Public in and for Cass County.

Attached to this roll is the certificate of the county clerk of Cass County, Michigan, under his seal and signature, certifying that Shafford Tryon is a duly authorized notary, &c., signed Chas. L. Morton, clerk.

Pottawatomie Indians now residing in Van Buren County, Michigan—Index and synopsis of affidavits.

(Pages 9 to 21 inclusive.) Names and number of the Pottawatomies who have resided in said county time past the knowledge of man.

ROLL NO. 3, AFFIDAVIT NO. 6.

STATE OF MICHIGAN, *County of Van Buren, ss:*

(Page 7.) Edward Cowles, affiant, being duly sworn, says he has recently visited them, and he personally knows the Pokagon band, and that the list, which is part of his affidavit, is correct in names and number; that he is sixty years of age.

EDWARD COWLES.

Subscribed and sworn to before me this 19th day of January, 1872.

CENIUS H. ENGLE,
Notary Public.

ROLL NO. 3, AFFIDAVIT NO. 7.

(Page 5.) Also, at the same time, personally appeared before me Ansel E. Reynolds, affiant, who, being duly sworn, says that he is forty-five years of age; has resided in Van Buren County, Michigan, twenty-three years; well knows the Pokagon band of Pottawatomie Indians, and Edward Cowles, who makes the attached affidavit; knows him to be an honorable and credible person; and he personally knows, after careful examination of the same, that the affidavit and list of Indians are those of actual residents of said county, and that the matters of fact by Cowles stated are correct; and that he has no interest in the prosecution of this claim, &c.

ANSEL E. REYNOLDS.

Subscribed and sworn to before me this 19th day of January, 1872.

CENIUS H. ENGLE,
Notary Public.

ROLL No. 3, AFFIDAVIT No. 8.

(Page 1.) Also, at the same time and place, personally appeared before me Henry Philps, affiant, who, being duly sworn, says that he is aged twenty-nine; a resident of said county twenty-nine years. Roswell Hall, affiant, (supervisor,) being duly sworn, says he is aged forty-nine years; a resident of said county seventeen years. George W. Stow, affiant, being duly sworn, says that he is aged fifty-one years; a resident of said county ten years. Keeler St. John, affiant, being duly sworn, says that he is aged fifty-four years; a resident of said county eighteen years; are well acquainted with the Pottawatomies of Pokagon band, and Edward Cowles, and personally know the facts in his affidavits, and the names and number of the Indians, to be correct.

HENRY PHILPS.
ROSWELL HALL.
GEORGE W. STOW.
KEELER ST. JOHN.

Subscribed and sworn to before me this 19th day of January, A. D. 1872; and I certify that I am personally acquainted with all the deponents, and know them to be respectable citizens of Van Buren County, Michigan, and credible persons, and from my personal knowledge, being acquainted with nearly all of the Indians whose names appear in said list; and that I have no interest in their case.

CENIUS H. ENGLE,
Notary Public.

(Page — of said roll.) Certificate of the clerk of Van Buren County, Michigan, that Cenius H. Engle is a duly appointed notary public in and for said county, in proper form, under the seal of the circuit court of said county, signed, J. W. Rowland, clerk.

Synopsis of affidavits relating to Pottawatomie Indians of the Pokagon band, residing in Saint Joseph County, Indiana.

ROLL No. 4, AFFIDAVIT No. 9.

STATE OF INDIANA, *Saint Joseph County, ss:*

(Page 1.) Samuel Cottrell, affiant, being duly sworn, says that he is aged sixty-eight years; resided in Saint Joseph County since 1828; was appointed sheriff to organize said county; knew the settlers and Indians; knew the Pottawatomie Indians, and attended their treaties in 1840; assisted in emigrating these Indians; was intimately acquainted with many of the different bands of the same.

(Page 2.) He was employed by Alixs Coquillard in removing Indians; as train-conductor Coquillard was paid so much apiece for removing them; many opposed to going; had to hunt them up, and, in many cases, bind them and haul them into camp in wagons.

(Page 3.) It being well understood by all of us that the Pokagon band were exempted from going west by the treaty of 1833, and that fact distinguished them from other bands, and, it being established, was sufficient to cause their release from arrest and removal. This fact has always distinguished them in my memory; that many of said band still reside in this county, and have from 1836 to 1843, and since; that the following list of such, with whom he is personally acquainted, (except a few young children,) are of said band, and residents now of said county.

(Page 4.) The same being carefully prepared by himself, signed by him, and containing the names of 89 parents and children, and that he has no interest in the claim of the same.

(Pages 5, 6, 7, 8, and 9.) List of names, numbering 89 souls. Has no interest in the claim.

SAMUEL L. COTTRELL.

Subscribed and sworn to before me this 18th day of January, A. D. 1872.
[L. S.] GEO. W. MATTHEWS, *Clerk.*

ROLL No. 4, AFFIDAVIT No. 10.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 1.) George Omea, (affiant,) being duly sworn, says that he is aged sixty-three; resided in Saint Joseph County, Indiana, thirty-seven years last past; was well acquainted with Indians residing in said county, and personally with Pokagon and his band. Have carefully examined the affidavit of Samuel L. Cottrell, his acquaintance, and the list of names of persons, and, from personal knowledge, he knows that the said list is correct, save as to three or four children; that said persons are now

and have been residents of said county, and always distinguished by belonging to Pokagon's band. He has no interest in the claim of said Indians, &c.

his
GEO. + OMEA.
mark.

Attest: A. N. DEACON.

Subscribed and sworn to before me this 18th day of January, 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 4, AFFIDAVIT NO. 11.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 13.) Also appears Dr. Jacob Hardman, (affiant,) being duly sworn, says that he is aged sixty-eight years; resided in Saint Joseph County since 1831; was the first practicing physician in said county; knew all the settlers, and was called as physician and surgeon for Indians, and treated old Chief Pokagon at his lodge, and became extensively acquainted with his band; kept a book account of his fees with them, and was paid most of them at Chicago treaty in 1833. Has carefully examined Samuel L. Cottrel's affidavit and list of names, and, from his knowledge of the facts, knows the facts are as therein set up, and has no interest in the claim of said band.

JACOB HARDMAN.

Attest: A. N. DEACON.

Subscribed and sworn to before me this 18th day of January, 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 4, AFFIDAVIT NO. 12.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 17.) E. C. Johnson, aged fifty-seven years, upon his oath, says that he is a resident of St. Jo. County since 1831. But few whites there then. Knew most of the Indians thereabouts. Knew Pokagon, aifd many of his band. Knew them to be Pokagon's band, because they were not arrested and taken west of the Mississippi River, and they then numbered some 350, whereas all the other Pottawatomies were compelled to go west by the treaty provisions, and have remained there ever since.

(Page 18.) Many Pottawatomies had to be arrested to be taken west by Alexis Coquillard, who had authority for removing them. Pokagon's band was exempt, and this distinguished them. Affiant was elected and served as sheriff of St. Jo. County from 1856 to 1860. I personally know that when they knew an Indian was of Pokagon's band, they did not arrest him to go west. Knew Samuel L. Cottrell since 1831, and know of no person who has had greater opportunities of knowing about the matters in his affidavit, and have examined his affidavit and list, and know that which is stated relative to the resident Indians is true. Has no interest in the claim, &c.

EVAN C. JOHNSON.

Subscribed and sworn to before me this 18th day of January, A. D. 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 4, AFFIDAVIT NO. 13.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 21.) Hon. Thomas S. Stanfield, (affiant,) being duly sworn, says that he is judge of St. Joseph County circuit court; age fifty-five; resided in said county since 1831. Has known Samuel L. Cottrell ever since then, and from the fact of official positions, and being engaged in removing the Indians, no citizen had greater opportunities, &c., with the Indians in their tribal relations.

(Page 22.) Is personally knowing to the truth of many of the facts in Cottrell's affidavit, and believes his statement in detail to be true. I would further say that I know of no man whose statement is entitled to more credit, or more likely to make proper observation of facts, or more accurate in his recollections, or faithful in his testimony. Has no interest in the claim, &c.

THOS. S. STANFIELD.

Attest: A. N. DEACON.

Subscribed and sworn to before me this 19th day of January, A. D. 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 4, AFFIDAVIT NO. 14.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 23.) S. W. Palmer, (affiant,) being duly sworn, says that he has served as sheriff

of St. Joseph County, Indiana, two terms; aged fifty-seven; resided in St. Joseph County thirty years; acted as sheriff for two terms in St. Joseph County, Indiana. Knows S. L. Cottrell intimately for twenty-five years, and knows of no man who could give more detailed accounts of the tribal relations of the Indians than he, and that Cottrell's statements are entitled to the utmost credit, as said Cottrell, as a man for truth and veracity, is a man of unquestionable character, and he has no interest in the claim, &c.

S. W. PALMER.

Subscribed and sworn to before me this 18th day of January, A. D. 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 4, AFFIDAVIT NO. 15.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 27.) Alexis Coquillard, (affiant,) being duly sworn, says that he is aged forty-six years; is 40 years a resident of St. Joseph County, Indiana; nephew of the trader by his name, &c., and has known S. L. Cottrell during the time. Knew of his assisting in removing the Indians. Has examined carefully Cottrell's affidavit; knows most of the persons named in the list of Cottrell's affidavit, page 28, and he knows many of the facts therein (said Cottrell's affidavit) stated to be true, and believes the facts stated to be true; and he has no interest in the claim.

A. COQUILLARD, JR.

Attest: A. N. DEACON.

Subscribed and sworn to before me this 18th day of January, 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 4, AFFIDAVIT NO. 16.

STATE OF INDIANA, *St. Joseph County, ss:*

(Page 29.) Elliot Tutt, (affiant,) being duly sworn, says he is aged fifty-seven years; a resident of St. Joseph County, Indiana, since 1832. Has well known S. L. Cottrell ever since 1832; and from his own knowledge of the facts in the case, and the knowledge of said Cottrell, he knows of no man who would know more of the tribal relations than he, and that he believes the details of Cottrell's affidavit are true. Has no interest in the case, &c.

ELLIOT TUTT.

Subscribed and sworn to before me, this 18th day of January, A. D. 1872.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

NOTE.—The above affiant is at present a member of the common council of the city of South Bend, Indiana, and for many years has been a trustee in said city, and county commissioner of said county. Properly attached to this roll of affidavits is the official certificate of the clerk of the St. Joseph circuit court, in which he certifies that the above affiants, with all of whom he is personally well acquainted, personally appeared before him, and being made acquainted by reading their respective affidavits, signed the same in his presence, and were sworn according to law, &c.; that the affiants are entitled to credit; that from his personal knowledge he knows most of the statements in said affidavits to be true. That he has no interest whatever in the claim. (Signed:) George W. Matthews, clerk of the Saint Joseph circuit court.

ROLL NO. 5, AFFIDAVIT NO. 17.

Affidavit of Dr. Jacob Hardman, aged sixty-seven years. He settled at South Bend, St. Joseph County, Indiana, in 1831, and commenced the practice of medicine; but few white settlers there then, but the Pottawatomies were numerous. Became favorably acquainted with the Indians, and practiced medicine with them. He knew old chief Pokagon and family, and many others, personally. He knows that in 1840 and 1841 several families of Pokagon's band settled in St. Joseph County, Indiana; that they and their families now number between eighty and ninety bands; that he is personally acquainted with most of them, and that he is not interested in the claim of said Indians.

JACOB HARDMAN.

George W. Matthews, clerk of the circuit court of St. Joseph County, Indiana, before whom the above affidavit was signed and affiant duly sworn, certifies that Jacob Hardman is one of the oldest citizens of St. Joseph County, is a practicing physician, and entitled to full credit.

(Certificate duly signed and sealed on the 17th February, 1871.)

Attached to the above roll is the following:

STATE OF INDIANA, *St. Joseph County, ss:*

We, the undersigned citizens of St. Joseph County, in the State of Indiana, hereby certify that we have for over thirty years been acquainted with Dr. Jacob Hardman, of South Bend, St. Joseph County, Indiana; have known him as a practicing physician; have read the affidavit of said Hardman relative to the Pokagon band of Pottawatomie Indians, and that we know that from the early residence of said Hardman as such physician, in his practice had great facilities for a thorough acquaintance with the Indians in said affidavit mentioned, and that we have every reason to believe the statements to be correct, being acquainted personally with many of the claimants, and have no interest in the claim.

LOUIS HUMPHREYS, M. D.,
Examining Surgeon for Pensions and Mayor of South Bend, Indiana.
BENJAMIN WALL,
Justice of the Peace.
DWIGHT DEMING,
County Commissioner of St. Joseph County.
JOHN BROWNFIELD,
President of South Bend National Bank.

Following this is the official certificate of Geo. W. Matthews, clerk of the St. Joseph's circuit court, certifying that the persons whose names appear to the above are old and highly respectable citizens, occupying the several positions by them indicated.

ROLL NO. 6, AFFIDAVIT NO. 18.

Affidavit of Samuel L. Cottrell, aged sixty-eight: Settled in St. Joseph County, Indiana, in 1828; was appointed sheriff by the governor of Indiana, to organize St. Joseph County; traded with the Indians; knew Chief Pokagon and his band; personally assisted in removing Pottawatomies west; greater portion of Pokagon band now reside in Michigan; the following persons now residing in St. Joseph County belong to said band and nation, with whom he is personally acquainted; list of 91; has no interest in the claim, &c.

SAMUEL L. COTTRELL.

Subscribed and sworn to before George W. Matthews, clerk of the St. Joseph circuit court, February 16, 1871. Official certificate of credibility of affiant set up.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 6, AFFIDAVIT NO. 19.

Affidavit of L. M. Taylor, aged sixty-six: A resident of St. Joseph County, Indiana, since 1827; has been acquainted with Samuel L. Cottrell since 1828; that to his personal knowledge most of the facts contained in Cottrell's affidavit are true; has no interest in the claim.

L. M. TAYLOR.

Subscribed and sworn to before me, this 16th day of February, 1871.
[SEAL.] G. W. MATTHEWS,
Clerk of the St. Joseph Circuit Court.

ROLL NO. 7, AFFIDAVIT NO. 20.

Affidavit of Lathrop M. Taylor, aged sixty-five years: Being duly sworn, states that he has resided in St. Joseph County, Indiana, since September, 1827, and, during that time, has known and traded with the Indians; he was present at the Chicago treaty in 1833; knew old Chief Pokagon and his band, and had for six years.

Before going to that treaty Topenebee and Pokagon bands held a council, and determined they would not sell their reserves, which were in a good hunting and fishing country, and convenient to church and school. Pokagon especially was an ardent advocate of education among his people, and it was resolved in their council that they would not go west and abandon their churches and school privileges.

Pokagon and his band camped a little way out of Chicago; they feared some advantage might be taken of them by the commissioners or land speculators, and, holding another council there, they repeated their determination, and also appointed a committee to watch and kill upon the spot any Indian who should sign any treaty ceding their reserves, &c.

Affiant saw Magosaw armed and watching the door of the commissioners. Upon affiant asking Magosaw what was wrong, he replied, "Topenebee has signed the treaty; he is a traitor to his people; I kill him as he comes out." Affiant notified J. Bertrand, one of the interpreters at the treaty, who approached Magosaw, took him away, promised him a horse and other property, and he signed the treaty.

This and similar transactions made such changes that, on the following day, Pokagon was compelled to sign the treaty. Affiant had an interview with old Chief Pokagon, during this time, who was greatly distressed about the turn affairs were taking. Affiant assured Pokagon that the Government was powerful, and was bound to have his reserves, and that he better dispose of them when he could make the best terms.

The old chief spoke feelingly of the friendship of his people toward the Government since the signing of the first treaty; the great amount of land his people had ceded to the Government; the confidence he had entertained that the Government would deal justly with them; the attachment to their reserves, with the advantages of religion, education, and subsistence that they then enjoyed on the hunting-grounds of their people; the earnestness of his manner when he said, "If I could save the reserves for my children, I would gladly die in defense of their rights before I would sign the treaty ceding the lands of his children and people away;" and he cried like a child when he signed the treaty.

The old chief told affiant at the treaty that it was understood that he and his people were to remain in Michigan, and have their full share of the annuities of that and all former treaties paid to them, without going west.

L. M. TAYLOR.

Subscribed and sworn to before me, this 15th day of December, A. D. 1870.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

L. M. Taylor, the above affiant, was a signing witness to the treaty, September 27, 1833; and in his affidavit (see p. —) states that he has no interest in this claim.

ROLL NO. 8, AFFIDAVIT NO. 21.

Affidavit of George Omea, aged sixty-two years: Is now and has been a resident of St. Joseph County, Indiana, for thirty-six years; knew the resident Indians, especially those who traded at South Bend; acquired their language, and traded some with them; knew of the removal of the main nation to their western home, in compliance to treaty of 1833. Knew old Chief Pokagon, and most of his band, personally, and that they did not remove west, but were for years in Michigan, in the northern part, as he understood it; that in 1840 several families came to St. Joseph County, Indiana, settled on their old hunting-grounds, near the Kankakee River. Said Indians and families numbered twenty-three; that they have increased, and that there are now residing in said county some ninety of said band, the greater portion of whom he knows personally, save some of the younger children. That among those who thus settled in said county in 1840 of said band, was Mah-wash-mah and family, Ship-she-wan-nan and family, the Labadies and families, Prin's and Chandonie's. Affiant has no interest in the claim.

his
GEORGE + OMEA.
mark.

Witnesses:
ISAAC WINDLE.
E. B. METZGER.

Sworn to and subscribed before Geo. W. Matthews, clerk of St. Joseph circuit court, accompanied by an official certificate that Geo. Omea is an old and respectable citizen, entitled to credit, having had opportunities for thorough acquaintance with the Indians, &c., and that he (Matthews) has no interest in the case. Dated 17th February, 1871.
[SEAL.] GEO. W. MATTHEWS, *Clerk.*

Being thus incontrovertibly established, the following exhibit will show the whole number of Indians who received and are entitled to receive the annuities for the years indicated:

Year.	Main nation.	Memorialists of Michigan.	Memorialists of Indiana.	Total memorialists.	Total Indians.	Year.	Main nation.	Memorialists of Michigan.	Memorialists of Indiana.	Total memorialists.	Total Indians.
1836.....	3,840	250	23	273	4,113	1856.....	3,181	239	53	292	3,473
1841.....	3,390	250	29	279	3,669	1861.....	2,142	237	63	300	2,442
1846.....	2,231	246	36	282	2,513	1869.....	2,202	235	74	300	2,511
1851*.....	3,914	241	44	285	4,199	1871†	928	233	88	321	1,249

* Immigration of scattering bands increased the number of main nation this year.
† 1,270 of main nation "civilized" in 1869 and 1870.

It will be observed that we show the number of your memorialists residing in Michigan to be 250 in 1836 and 1843, and 233 in 1871 and 1872, and graduate their decline through the semi-decades; and that your memorialists residing in Indiana numbered 23, and have increased to 89, their increase being also graduated through these semi-decades.

EXHIBIT OF TREATY STIPULATIONS EXISTING BETWEEN THE UNITED STATES AND THE POTTAWATOMIE NATION OF INDIANS IN 1836.

Appropriations made by Congress in fulfillment of the treaty stipulations.

[Volumes and pages of the United States Statutes refer to appropriation bills.]

Stipulations.	Volume 7.	Date of treaty.	Amount.	Proclamation.	Time to run.	Vol. 5, p. 37, 1836.	Vol. 5, p. 704, 1845.	Vol. 5, p. 766, 1846.	Vol. 9, p. 22, 1847.	Vol. 9, p. 132, 1848.	Vol. 9, p. 253, 1849.	Vol. 9, p. 382, 1850.	Vol. 9, p. 544, 1851.
Perpetual annuity	49	Aug. 3, 1795	$1,000	Dec. 2, 1795	Forever	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000
Salt	74	June 7, 1803	.....	Dec. 26, 1803	.....	140	140	140	140	140	140	140	140
Perpetual annuity	113	Sept. 30, 1809	500	Jan. 16, 1810	Forever	500	500	500	500	500	500	500	500
Perpetual annuity	185	Oct. 2, 1818	2,500	Jan. 15, 1819	Forever	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Annuity	295	Aug. 29, 1821	2,000	Mar. 25, 1822	Twenty-two years	2,000	2,000	2,000	2,000	2,000	.....	.....	.....
Annuity	295	Oct. 16, 1826	2,000	Feb. 7, 1827	Pleasure of President	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Blacksmith	295	Oct. 16, 1826	.....	Feb. 7, 1827	.....	720	720	720	720	720	720	720	720
Iron, steel, and miller	295	Oct. 16, 1826	.....	Feb. 7, 1827	.....	220	220	220	220	220	220	220	220
Salt, (160 bushels)	295	Oct. 16, 1826	.....	Feb. 7, 1827	.....	320	320	320	320	320	320	320	320
Perpetual annuity	317	Sept. 20, 1828	2,000	Jan. 7, 1829	Forever	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Annuity	317	Sept. 20, 1828	1,000	Jan. 7, 1829	Twenty years	1,000	1,000	1,000	1,000	1,000	.....	.....	.....
Tobacco, iron, and steel	317	Sept. 20, 1828	.....	Jan. 7, 1829	Annually	460	400	400	400	300	300	300	300
Education	317	Sept. 20, 1828	1,000	Jan. 7, 1829	Pleasure of Congress	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
To chief	317	Sept. 20, 1828	100	Jan. 7, 1829	Life of	100	100	100	100	100	100	100	100
Blacksmith	317	Sept. 20, 1828	.....	Jan. 7, 1829	.....	720	720	720	720	720	720	720	720
Iron and steel	317	Sept. 20, 1828	.....	Jan. 7, 1829	.....	220	220	220	220	220	220	220	220
Annuity	378	Oct. 20, 1832	15,000	Jan. 21, 1833	Twenty years	15,000	1,500	15,000	15,000	15,000	15,000	15,000	15,000
To chief	378	Oct. 20, 1832	.....	Jan. 21, 1833	Life of	1,000	400	13,500	400	400	400	400	400
Annuity	394	Oct. 26, 1832	20,000	Jan. 21, 1833	Twenty years	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Education	394	Oct. 27, 1832	2,000	Jan. 21, 1833	Pleasure of Congress	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Perpetual annuity	320	July 29, 1829	16,000	Jan. 2, 1830	Forever	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000
Iron and steel	320	July 29, 1829	.....	Jan. 2, 1830	Forever	220	220	220	220	220	220	220	220
Blacksmith	320	July 29, 1829	.....	Jan. 2, 1830	Forever	720	720	720	720	720	720	720	720
Salt, (50 barrels)	320	July 29, 1829	.....	Jan. 2, 1830	Forever	250	250	250	250	250	250	250	250
To chiefs	.....	.....	.....	.....	Life of	1,100	700	700	700	700	700	700	700
Annuity	218	Aug. 29, 1821	5,000	Mar. 25, 1822	Twenty years	5,000	.....	.....	.....	.....	.....	.....	.....
Three laborers	317	Sept. 20, 1828	.....	Jan. 7, 1829	Ten years	360	.....	.....	.....	.....	.....	.....	.....
Annuity	399	Oct. 27, 1832	15,000	Jan. 21, 1833	Twelve years	15,000	.....	.....	.....	.....	.....	.....	.....
						92,930	56,630	83,230	70,130	70,030	67,130	67,030	67,030

Appropriations made by Congress in fulfillment of the treaty stipulations—Continued.

Stipulations.	Volume 7.	Date of treaty.	Amount.	Proclamation.	Vol. 9, p. 574, 1852.	Vol. 10, p. 49, 1853.	Vol. 10, p. 233, 1854.	Vol. 10, p. 324, 1855.	Vol. 10, p. 693, 1856.	Vol. 11, p. 73, 1857.	Vol. 11, p. 178, 1858.	Vol. 11, p. 289, 1859.	Vol. 11, p. 396, 1860.	Vol. 12, p. 53, 1861.
Perpetual annuity	49	Aug. 3, 1795	$1,000	Dec. 2, 1795	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000
Salt	74	June 7, 1803	.....	Dec. 26, 1803	140	140	.....	.....	.....	.....	.....	.....	.....	.....
Perpetual annuity	113	Sept. 30, 1809	500	Jan. 16, 1810	500	500	500	500	500	500	500	500	500	500
Perpetual annuity	185	Oct. 2, 1818	2,500	Jan. 15, 1819	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Annuity	295	Aug. 29, 1821	2,000	Mar. 25, 1822	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Annuity	295	Oct. 16, 1826	2,000	Feb. 7, 1827	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Blacksmith	295	Oct. 16, 1826	.....	Feb. 7, 1827	720	720	720	720	720	.....	.....	.....	.....	.....
Iron, steel, and miller	295	Oct. 16, 1826	.....	Feb. 7, 1827	220	220	220	220	220	.....	.....	.....	.....	.....
Salt, (160 bushels)	295	Oct. 16, 1826	.....	Feb. 7, 1827	320	320	320	.....	.....	.....	.....	.....	.....	.....
Perpetual annuity	317	Sept. 20, 1828	2,000	Jan. 7, 1829	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Annuity	317	Sept. 20, 1828	1,000	Jan. 7, 1829	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tobacco, iron, and steel	317	Sept. 20, 1828	.....	Jan. 7, 1829	300	300	300	300	300	300	300	300	300	300
Education	317	Sept. 20, 1828	1,000	Jan. 7, 1829	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
To chief	317	Sept. 20, 1828	100	Jan. 7, 1829	100	100	100	100	100	.....	.....	.....	.....	.....
Blacksmith	317	Sept. 20, 1828	.....	Jan. 7, 1829	720	720	720	720	720	(*)	(*)	(*)	2,160	2,160
Iron and steel	317	Sept. 20, 1828	.....	Jan. 7, 1829	220	220	220	220	220	(*)	(*)	(*)	660	660
Annuity	378	Oct. 20, 1832	15,000	Jan. 21, 1833	15,000	15,000	.....	.....	.....	.....	.....	.....	.....	.....
To chief	378	Oct. 20, 1832	.....	Jan. 21, 1833	400	400	400	400	400	200	200	200	200	200
Annuity	394	Oct. 26, 1832	20,000	Jan. 21, 1833	20,000	20,000	.....	.....	.....	.....	.....	.....	.....	.....
Education	394	Oct. 27, 1832	2,000	Jan. 21, 1833	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Perpetual annuity	320	July 29, 1829	16,000	Jan. 2, 1830	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000
Iron and steel	320	July 29, 1829	.....	Jan. 2, 1830	220	220	.....	440	220	.....	.....	.....	.....	.....
Blacksmith	320	July 29, 1829	.....	Jan. 2, 1830	720	720	.....	1,440	720	.....	.....	.....	.....	.....
Salt, (50 barrels)	320	July 29, 1829	.....	Jan. 2, 1830	250	250	250	250	250	250	250	250	250	250
To chiefs	.....	.....	.....	.....	700	700	700	700	700	700	700	700	700	700
Annuity	218	Aug. 29, 1821	5,000	Mar. 25, 1822	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Three laborers	317	Sept. 20, 1828	.....	Jan. 7, 1829	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Annuity	399	Oct. 27, 1832	15,000	Jan. 21, 1833	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
					66,780	67,030	30,950	32,510	31,570	28,450	28,450	28,450	31,270	31,270

* Treaties of 1826, 1828, 1829.

Appropriations made by Congress in fulfillment of the treaty stipulations—Continued.

Stipulations.	Volume 7.	Date of treaty.	Amount.	Proclamation.	Vol. 12, p. 922, 1862	Vol. 12, p. 930, 1863.	Vol. 12, p. 732, 1864.	Vol. 13, p. 169, 1865.	Vol. 13, p. 548, 1866.	Vol. 14, p. 202, 1867.	Vol. 14, p. 505, 1868.	Vol. 15, p. 212, 1869.	Act March 10, 1870.	Act July 15, 1871.
Perpetual annuity	49	Aug. 3, 1795	$1,000	Dec. 2, 1795	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$724 77	$724 77
Salt	74	June 7, 1803	.....	Dec. 26, 1803	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Perpetual annuity	113	Sept. 30, 1809	500	Jan. 16, 1810	500	500	500	500	500	500	500	500	362 39	362 39
Perpetual annuity	185	Oct. 2, 1818	2,500	Jan. 15, 1819	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	1,811 93	1,811 93
Annuity	295	Aug. 29, 1821	2,000	Mar. 25, 1822	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Annuity	295	Oct. 16, 1826	2,000	Feb. 7, 1827	2,000	2,000	2,000	2,000	2,000	2,000	2,000	.....	2,000 00	2,000 00
Blacksmith	295	Oct. 16, 1826	.....	Feb. 7, 1827	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Iron, steel, and miller	295	Oct. 16, 1826	.....	Feb. 7, 1827	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Salt, (100 bushels)	295	Oct. 16, 1826	.....	Feb. 7, 1827	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Perpetual annuity	317	Sept. 20, 1828	2,000	Jan. 7, 1829	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	1,449 54	1,449 54
Annuity	317	Sept. 20, 1828	1,000	Jan. 7, 1829	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tobacco, iron, and steel	317	Sept. 20, 1828	.....	Jan. 7, 1829	300	300	300	300	300	300	300	300	217 43	217 43
Education	317	Sept. 20, 1828	1,000	Jan. 7, 1829	1,000	1,000	1,000	1,000	1,000	1,000	1,000	.....	1,000 00	1,000 00
To chief	317	Sept. 20, 1828	100	Jan. 7, 1829	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Blacksmith	317	Sept. 20, 1828	.....	Jan. 7, 1829	2,160	2,160	2,160	2,160	2,160	2,160	2,820	2,820	2,042 94	2,042 94
Iron and steel	317	Sept. 20, 1828	.....	Jan. 7, 1829	660	660	660	660	714	660	.....	.....	.....	.....
Annuity	378	Oct. 20, 1832	15,000	Jan. 21, 1833	.....	.....	.....	.....	.....	.....	.....	.....	.....	*3,350 00
To chief	378	Oct. 20, 1832	.....	Jan. 21, 1833	200	200	200	200	200	200	200	200	200 00	.....
Annuity	394	Oct. 26, 1832	20,000	Jan. 21, 1833	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Education	394	Oct. 27, 1832	2,000	Jan. 21, 1833	2,000	2,000	2,000	2,000	2,000	2,000	2,000	.....	2,000 00	2,000 00
Perpetual annuity	320	July 29, 1829	16,000	Jan. 2, 1830	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000	11,596 33	11,596 33
Iron and steel	320	July 29, 1829	.....	Jan. 2, 1830	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Blacksmith	320	July 29, 1829	.....	Jan. 2, 1830	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Salt, (50 barrels)	320	July 29, 1829	.....	Jan. 2, 1830	250	250	250	250	250	437½	437½	437½	317 09	317 09
To chiefs	.....	.....	.....	.....	700	700	700	700	700	700	700	700	100 00	100 00
Annuity	218	Aug. 29, 1821	5,000	Mar. 25, 1822	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Three laborers	317	Sept. 20, 1828	.....	Jan. 7, 1829	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Annuity	399	Oct. 27, 1832	15,000	Jan. 21, 1833	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
					31,270	31,270	31,270	31,270	31,324	31,457½	31,457½	26,457½	23,822 42	27,972 42

NOTE.—Perpetual annuity, 1872, $25,557 50.

* Interest on stocks of educational fund.

Appropriations for 1837 *to* 1844, *inclusive of both years, as appropriated without specifying treaty stipulations.*

	Vol. 5, p. 158, 1837.	Vol. 5, p. 298, 1838.	Vol. 5, p. 323, 1839.	Vol. 5, p. 402, 1840.	Vol. 5, p. 407, 1841.	Vol. 5, p. 493, 1842.
Miami and Eel River Pottawatomies	$20,800	$88,120	$20,200	$20,200	$20,200	$15,200
Pottawatomies of the Prairie	16,000	16,000	16,000	16,000	16,000	15,400
Pottawatomies of the Wabash	20,000	20,000	20,000	20,000	20,000	20,000
Ottawas, Chippewas, and Pottawatomies	34,290	42,490	34,290	34,290	34,290	33,890
Pottawatomies of Indiana	17,000	17,000	17,000	17,000	17,000	17,000
Total	165,513	167,610	91,490	91,490	91,490	85,490

NOTE.—Volume 5, page 612, 1843 and 1844, changes fiscal year from January 1 to June 30, and appropriates $723,708 for the half calendar year ending June 30, 1843, and $749,565 for the fiscal year ending June 30, 1844, without any specifications. Due June 30, 1843, $50,512. Due June 30, 1845, $101,030. Arrears of $12,053 20 due in 1859, on the 5 per cent. bonds of the State of Indiana, held by the Secretary of the Interior for the Pottawatomies appropriated in 1860, volume 12, page 53. 1866, volume 14, page 370, $39,000 to be paid those residing in Michigan.

Appropriated in 1868 for 1869. (See United States Statutes at Large, volume 15, page 213.)

The footings of the foregoing appropriations are as follows, the same being purely those of treaties concluded prior to 1833:

Appropriated in 1836	$92,930 00
Appropriated in 1837	$165,513 00
Appropriated in 1838	167,610 00
Appropriated in 1839	91,490 00
Appropriated in 1840	91,490 00
Appropriated in 1841	91,490 00
Total for this semi-decade of five years	607,593 00
Appropriated in 1842	$85,490 00
Appropriated in 1843	42,515 00
Appropriated in 1844	85,030 00
Appropriated in 1845	56,630 00
Appropriated in 1846	83,230 00
Total for this semi-decade of five years	352,893 00
Appropriated for 1847	$79,130 00
Appropriated for 1848	70,030 00
Appropriated for 1849	67,030 00
Appropriated for 1850	67,030 00
Appropriated for 1851	67,030 00
Total for this semi-decade of five years	341,250 00
Appropriated for 1852	$66,780 00
Appropriated for 1853	67,030 00
Appropriated for 1854	30,950 00
Appropriated for 1855	32,510 00
Appropriated for 1856	31,570 00
Total for this semi-decade of five years	228,840 00
Appropriated for 1857	$28,450 00
Appropriated for 1858	28,450 00
Appropriated for 1859	28,450 00
Appropriated for 1860	31,270 00
Appropriated for 1861	31,270 00
Total for this semi-decade of five years	147,890 00
Appropriated for 1862	$31,270 00
Appropriated for 1863	31,270 00
Appropriated for 1864	31,270 00
Appropriated for 1865	31,270 00
Appropriated for 1866	21,324 00
Appropriated for 1867	31,457 50
Appropriated for 1868	31,457 50
Appropriated for 1869	26,457 50
Total for the above years	245,776 50
Appropriated for 1870	$23,822 42
Appropriated for 1871	27,972 42
Perpetual annuity for 1872	25,557 50
Total for the above years	77,352 34
Total appropriations of 1836–1872 inclusive, in which your memorialists are clearly entitled to their just proportion	$2,094,524 84

The following is their just proportion of the same as computed for

the above designated periods upon the numbers of Indians as heretofore established:

Amount thus appropriated in 1836, $92,930; number of Indians in 1836, 4,113; per capita, $22 47 +; for 273 Indians		$6,134 86
Sum of appropriations from 1837 to 1841, inclusive, $607,593; number of Indians, 3,669; per capita, $146 +; for 279 Indians		37,061 03
Sum of appropriations from 1842 to 1846, inclusive, $352,893; number of Indians, 2,513; per capita, $140 42 +; for 282 Indians		39,598 44
Sum of appropriations from 1847 to 1851, inclusive, $341,250; number of Indians, 4,199; per capita, $81 26 +; for 285 Indians		23,161 38
Sum of appropriations from 1852 to 1856, inclusive, $228,840; number of Indians, 3,473; per capita, $65 89 +; for 292 Indians		19,240 17
Sum of appropriations from 1857 to 1861, inclusive, $147,890; number of Indians, 2,442; per capita, $60,56 +; for 300 Indians		18,168 30
Sum of appropriations from 1862 to 1869, inclusive, $245,776 50; number of Indians, 2,511; per capita, $97 87 +; for 309 Indians		30,244 61
Sum of appropriations from 1870 to 1871, inclusive, $77,353 34; number of Indians, 1,249; per capita, $61 13 +; for 321 Indians		19,622 73
$2,000 for 19 years, not included in the above, being the annuity provision of treaty supplemental, September 27, 1833		38,000 00
Aggregate of our just proportion of all former annuities up to and including 1872		231,212 52
There has been paid to this band since 1843 to 1865, inclusive, twenty-three years, $1,587 50 per annum, amounting to	$36,512 50	
There was also paid this band in 1866, $39,000 out of the funds of the nation in common	39,000 00	
Total payments made your memorialists since 1836		75,512 50
Balance remaining unpaid on same		$155,699 02

It thus appears how great was the extent of Commissioner Crawford's mistake, awarding as our portion of but one former annuity instead of some fourteen, and of but $18,000, when it should have been the same proportion of over $107,000.

But it appears that after many years of thorough investigation, resulting in the unquestioned establishment of our vested rights in all "former annuities" upon and by the permanent authorities hereinbefore cited, Congress appropriated $39,000, to be received by us in satisfaction of all demands.

This $39,000 was the amount then found due (the true amount, however, being as above shown) as arrears on annuities; $25,557 56 are due annually forever, and which, by far, make up the greater proportion of the amount now due us.

The effect of this joint resolution was a most positive abrogation and utter disregard of the treaties of our Government and all of the identical facts and decisions upon which it rests; it at once recognizes, confirms, and freely establishes our vested rights in these annuities as being justly our due under treaties of the United States, which it fully assumes to respect, and in conformity to the reports of the Department of the Interior, and both committees of Indian affairs before cited, and then assumes to divest us of all of those identical rights in open violation of the treaties and all the authorities so eminent and unanimous, which it at the same time respects and in conformity to which it assumes to act. It is a law in violation of reason, and the books say that a law without a reason is no law.

We then well knew the extent of our vested rights in this case, being fully informed of the existence and nature of the reports herein cited.

The Department was satisfied that we would not so accept this

$39,000, by order of repeated councils of our people. The agent paying the same was also so notified. But we were poor; we had long been expecting a much larger sum; we had involved ourselves and our friends in large debts for building our school-houses and churches; we were in distressed and straitened circumstances; we were under the duress of distress; we had to have some money or lose our improvements and all their benefits, which we most dearly prize, and being induced to believe by our friends that our great Christian Government and guardian would yet deal justly with us, her weak, poor, and defenseless wards, by faithfully settling with us upon the plain provisions of her own most solemn treaties with us, by which she acquired such vast tracts of the most valuable lands in her domain; believing that she could not afford to, and would not, refuse to pay us the small purchase-price of the lands she so purchased of us. Under all these circumstances, under the most determined and effective protests known to us, we reluctantly accepted the same, not as the Government would have it, but only as so much paid on our just claim, for which we now allow full credit; and we now, in the name of simple justice, most respectfully and most confidingly pray that that simple receipt, so forced from us, will not be now presented as a bar to the payment of our just dues.

We have long been expecting this payment. We are a peaceful, industrious, religious, and law-abiding people, able to conduct the affairs of common life as citizens in like relations. We are strongly attached to the community in which we have so long and so pleasantly resided, and to which we are in no manner obnoxious or disagreeable. We are poor, but not represented in the prisons or poor-houses.

We greatly need our payment to assist us in supporting our aged, in maintaining our families, and to better educate our children in conformity to the civilization by which we are surrounded, and which we so dearly appreciate and greatly desire to realize, and we assure you that the money shall be so invested and disposed of as to most permanently secure the benefits of the same to our people.

Although the greater part of this amount has been our due for about twenty years, which at 5 per cent. would have been doubled, and though the Government has had the use of the same, we present no demand for interest.

Please notice the following synopsis of affidavits of the best informed and most respectable and credible witnesses, relating to the alleged facts attending the acceptance of the $39,000, which affidavits are with the papers accompanying the case.

Affidavits relating to payment of the $39,000 in 1866, and the protest made by the Indians against accepting it in full satisfaction; the necessities amounting to duress under which they were placed, and the conviction and real condition upon which it was received, &c.

ROLL No. 9, AFFIDAVIT No. 22.

Affidavit of A. J. Foposh, of Cass County, Michigan, aged thirty-eight years, who, being duly sworn, says that he is an educated Miami Indian, residing in the neighborhood of the Pokagon Indians of said county; being well acquainted with the same, was appointed interpreter at the payment of the $39,000, in August, 1866; that the said Indians held two councils and authorized him to say that the Indians could not accept the $39,000 as payment of the full amount due them; that they would only receive it as part of the amount due them, but would take it being in greatly embarrassed circumstances, believing the Government would deal justly with them; that to this the agent replied he could hear no propositions or conditions, and at the same time gathered up his papers and carpet-sack; that said Indians were very poor—in debt and straitened circumstances—with mortgages on their small tracts of land (note, for church and school-house buildings)—anticipating a large sum to meet their indebtedness, (see Cowles's deposition;) and they were advised by those friendly that they

could accept the $39,000 without in the least invalidating their claim for whatever amount was justly due them under the treaties; that the Government could not afford to do otherwise than deal justly with them when their claim was properly presented; that the Indians believing and confiding in this information, and believing they could go with confidence to the Government for any and all amounts and annuities so due them, the $39,000 was accepted; that they are a poor, needy people, struggling to sustain their families and educate their children by every effort and hunting, &c.; that they are fully informed of the nature of the favorable and friendly reports of committees, and various reports relative to their claim, and believe that a Christian Government will deal justly with them.

AUGUSTINE J. FOPOSH.

Subscribed and sworn to before me; that the same was read over to the affiant, and that he is capable of reading and understanding the same.

Witness my hand and official seal, this 4th day of January, 1871.

[SEAL.]

CEORGE W. MATTHEWS,
Clerk of Saint Joseph Circuit Court.

ROLL NO. 10, AFFIDAVIT NO. 23.

Edward Cowles, affiant, being the same person whose affidavit appears on page — of this memorial, being duly sworn, says that he is personally familiar with the facts attending the payment of the $39,000. The Indians had long expected the payment of a large amount, being familiar with the reports of Hon. W. P. Dole, Commissioner of Indian Affairs, and Hon. C. B. Smith, Secretary of the Interior, made in 1862, and believed the amount then reported ($192,850) would be paid. In view of its early payment they had contracted a large amount of debts for churches, and school-houses, &c., and upon hearing of the joint resolution awarding only $39,000, they held several councils of their people and decided not to accept the $39,000, fearing it would debar them from prosecuting their just claim for the remainder.

But after these general councils were ended, the head-men of these people, being informed by lawyers and people in whom they had full confidence, that they could safely accept the $39,000 without cutting themselves off from any just claim they then had against the Government; that it would only be as so much paid; that the joint resolution could not be made to abrogate or annul the treaties. Relying upon these representations, and the justice of a Christian Government as their guardian; being fully satisfied that they would yet be justly dealt with; and being in depressed and straitened circumstances—pressed by their creditors—a few of these head-men consented to accept the $39,000, not as the Government would have it, but simply as so much paid on their claim, in which manner it was received and accepted by all of them.

I was present at the councils and at the payment, and very familiar with these matters, and know by personal acquaintance with the parties and the facts that what I have stated is true.

EDWARD COWLES.

Subscribed and sworn to before George W. Matthews, clerk of Saint Joseph circuit court, 20th January, 1871, accompanied with official certificate of knowledge of and credibility of affiant.

[SEAL.]

GEO. W. MATTHEWS, *Clerk.*

ROLL NO. 11, AFFIDAVIT NO. 24.

Affidavit of Rev. Lewis Buroux, aged fifty-three years, being duly sworn, says that he is now a resident of said county, (Wayne County, Michigan,) and was the pastor of the Catholic church in Silver Creek, Michigan, in 1867, and served the Pokagon Indians, there residing, and was well acquainted with their circumstances; were poor, with small tracts of lands; had to devote most of their time to hunting and trapping to support themselves and families; were greatly disappointed and depressed in 1866 by being compelled to accept the $39,000; they were disposed to believe some under influence had been exerted by the committee and agents of the main nation west to cut them off from the just proportions of said annuities; that in August, 1867, Benj. B. Bertrand, being a member of the business committee of the main nation west, and affiant had a conversation with said Bertrand relating to the said joint resolution. Bertrand said, "That the main nation west did not object to the Michigan Indians sharing with them in the annuities under the treaty, and that, so far from objecting to the payment of their just proportion, they desired that they should be protected and paid their full share of such annuities, and wholly disclaimed any disposition to see them treated otherwise, and also stated that such was the desire of the Indians west.

REV. L. BUROUX.

Sworn and subscribed to before me this third day of February, A. D. 1871.

[SEAL.]

GABRIEL R. GOODELL,
Notary Public, Wayne County, Michigan.

ROLL NO. 12, AFFIDAVIT NO. 25.

Affidavit of A. J. Foposh, being same person, interpreter, &c., roll No. 9, being duly sworn, affiant says that he visited the Pottawatomies, in Kansas, some six weeks after the payment of the $39,000 in Michigan. The Kansas Pottowatomies' head-men and Indians are surprised at the terms of the payment, and had not intended to disturb their perpetual annuities, and they, without a dissenting voice, to his knowledge, desired the Michigan band to continue to share them, that they were friendly, &c.

Affiant was present at the interview with Rev. L. Buroux and Benjamin B. Bertrand, and heard Bertrand say that it was not the intention or desire to cut them, (the Michigan band;) that they (the Kansas Indians) did not intend to disturb their (the Michigan band's) annuities, &c., and that whoever drew the joint resolution did so without the advice of Indians. That he (Bertrand) and his people considered that the Michigan Indians were justly entitled to draw their perpetual annuities to the full amount provided for in the treaty of Chicago in 1833, and other treatics. Mr. Bertrand stated this substantially to me at Niles, Michigan, a day or two before meeting with the priests and others. My memory of this matter is clear and distinct, as it has been the subject of much talk and interest among the Indians. Personally affiant has no part or lot in the claim.

AUGUSTINE J. FOPOSH.

I hereby certify that the above named Augustine J. Foposh, came personally before me and subscribed the foregoing affidavit and made oath that the foregoing affidavit was true.

Witness my hand and official seal this 10th day December, A. D. 1870.

[SEAL.]

GEO. W. MATTHEWS,
Clerk Saint Joseph County Court.

ROLL NO. 13, AFFIDAVIT NO. 26.

STATE OF MICHIGAN, *County of Cass, ss.*

Elias S. Howard, affiant, of said county and State, being duly sworn, says he is forty-one years of age, has resided in said county eighteen years, is well acquainted with the Pokagon Indians residing in that county. They are poor, subsisting by farming in a small way, hunting and trapping.

Affiant was present in 1866 when the agent of the United States Government paid $39,000. The Indians were very much dissatisfied with the amount, &c., and so informed the agent through A. J. Foposh, their interpreter. They were very unwilling to receive this amount in full satisfaction of their claim against the Government. Agent said he could only pay the money under the instructions of the Government. That affiant learned from the head-men at the payment, and subsequently, that they considered this $39,000 but a small part of what was justly due said Indians, and that they were induced to receive it purely from their poverty, which made it necessary for them to receive it to save their farms from being sacrificed at mortgage sale, and partly from representations then made that their claim would yet be paid in full if said Government should be satisfied that it was just and equitable.

ELIAS S. HOWARD.

Subscribed and sworn to before me this 10th day of January, 1871.

[SEAL.]

CHANCY T. LEE,
Notary Public, Cass County, Michigan.

(Clerk's certificate that Lee is notary public.)

ROLL NO. 14, AFFIDAVIT NO. 27.

STATE OF MICHIGAN, *County of Cass, ss:*

James Sullivan, affiant, duly sworn, is a resident of said county and State; aged fifty-nine; more than thirty years resident in said county; is personally well acquainted with the Indians there residing; was at the payment of the $39,000; the Indians protested; accepted it as only part of what was due; their necessities forced them to accept it, which they only did believing that the Government would do justly with them.

(NOTE.—Being substantially the same in substance as E. S. Howard's affidavit upon the same subject, being No. 26.)

(NOTE.—Some half dozen of these people then owned some 40 and 60 acres of land each, and had mortgaged the same to build school-houses and churches, and incurred other common debts for the people, and they were principally instrumental in inducing

the others, upon the reasons set up in the affidavits, to accept the $39,000, being convinced and confident that the Government could not be so unjust as to refuse the payment of all that is justly due them, by setting up as the ground of her refusal a receipt she has forced from us under the duress of distress, and the most determined protests.)

RELATING TO THE RESERVES.

It appears by the first article of the treaty of 27th of September, 1833, that the memorialists were residing on 164 sections (104,960 acres) of land at the time of the treaty, which they then held as reserves under former treaties, which said article reads:

ARTICLE 1. The said chiefs and head men cede to the United States all their land situate in the territory of Michigan, south of the Grand River, being the reservations at Notawasepe, of four miles square, contained in the third clause of the second article, treaty made at Chicago on the 29th day of August, 1821; and the 99 sections of land contained in the treaty made at St. Joseph on the 19th September, 1827; and also the tract of land on the St. Joseph River, opposite the town of Niles, and extending to the line of the State of Indiana, on which the villages of Topenebee and Pokagon are situated, supposed to contain about 49 sections.

Please notice the following synopsis of affidavits accompanying the papers in the case relative to the residence, &c., of these people at the time of the treaty, which affiants are of the most respectable citizens, and are believed to be the best informed in the premises now living, and entitled to full faith and credit, being disinterested contemporaries of the events and facts related.

Synopsis of affidavits relating to the reserves of the Pokagon band of Pottawatomie Indians of Michigan and Indiana.

ROLL NO. 15, AFFIDAVIT NO. 28.

STATE OF MICHIGAN, *Berrien County, ss:*

(Pages 1 and 2.) Edward Cowles, affiant, being duly sworn, says he is sixty years old; has resided in Berrien and Cass Counties, Michigan, since 1841; has at and since the time of the treaty of Chicago, in 1833; knows that the Pokagon band were the only occupants of the 49 sections of land near Niles; that at time of said treaty, and some years thereafter, a great many—as near as I can now judge, one-fourth—of said band, then numbering some 350 souls, resided on these reserves at Paw-Paw and Nottawaseepee; which said reserves, in the aggregate, appear by said treaty 27th September, 1833, to amount to 164 sections of land. I know this band alone occupied the 49 sections opposite Niles; that the exact proportion which the members of Pokagon's band bore as residents to the remaining 115 sections of their reserves, affiant has no data to determine, as many Pottawatomie Indians, including some of Pokagon's band, fled from their country—some to Canada, some elsewhere—to avoid removal west, and the actual number of tribal residents on these reserves was not known.

That, from all the means of knowledge within his reach, he feels safe in saying that the remainder of the band that did not reside on the 49 sections were, at the lowest estimate, one-half in numbers who were residents of the remaining 115 sections.

That it was understood at the time of the treaty of 1833 that the 164 sections of land, being Indian reserves, all belonged to Pokagon's band, and by said Pokagon's band ceded to the United States September 27, 1833.

EDWARD COWLES.

Subscribed and sworn to before me this 16th day of January, A. D. 1872.

EBENEZER McILVAIN,
Justice of the Peace.

ROLL NO. 15, AFFIDAVIT NO. 29.

STATE OF MICHIGAN, *County of Berrien, ss:*

(Page 3.) Thomas Deniston, affiant, being duly sworn, says that he is sixty-eight years of age, residing in Niles, Michigan, since 1830; was well acquainted with Pokagon, his band, and their tribal relations; knew that the Pokagon band were the only residents of the 49 sections—their reserves near Niles—and many of them now reside

in Cass County, &c.; and he always understood that by treaty 27th September, 1833, they ceded all their lands to the United States.

THOMAS DENISTON.

Subscribed and sworn to before me this 17th day of January, A. D. 1872.

EBENEZER McILVAIN,
Justice of the Peace.

ROLL NO. 15, AFFIDAVIT NO. 30.

STATE OF MICHIGAN, *County of Berrien, ss:*

(Page 4.) Edward R. Griswold, affiant, aged fifty-four years, being duly sworn, says that he has resided in Niles, said State, since 1830; knew old Chief Pokagon and his band, and the Indians of the McCay mission-school near Niles.

Affiant has carefully read the affidavit of Thomas Deniston, and from personal knowledge knows the facts therein set forth are true. Has no interest in the claim.

EDWARD R. GRISWOLD.

Subscribed and sworn to before me this 17th day of January, A. D. 1872.

EBENEZER McILVAIN,
Justice of the Peace.

ROLL NO. 15, AFFIDAVIT NO. 31.

STATE OF MICHIGAN, *County of Berrien, ss:*

(Page 5.) Hiram Chilson, affiant, being duly sworn, says he is seventy-five years of age. Came to said county in 1829, and resided here ever since; that he was, and still remains, well acquainted with the tribal relations of the Pokagon band of Pottawatomie Indians, at and since the year 1830; that he knows that the Pokagon band then resided, and were the only residents and occupants of their lands, near Niles, Michigan; that many of said Indians now reside in Cass County, Michigan; that he was waiting here until after the treaty, and then went and made a location on the reservation, west of Niles.

HIRAM CHILSON.

Subscribed and sworn to before me this 17th day of January, A. D. 1872.

EBENEZER McILVAIN,
Justice of the Peace.

ROLL NO. 15, AFFIDAVIT NO. 32.

STATE OF MICHIGAN, *County of Berrien, ss:*

(Page 6.) William B. Gray, affiant, being duly sworn, says that he has resided in the State of Michigan, near Niles, for the past forty-one years. Knew old Chief Pokagon and his band, being well acquainted with them, the Pottawatomies, and the Indians of the McCoy school, near Niles; that he is well acquainted with Edward Cowles, whose affidavit is hereunto annexed; he has carefully read, and from his personal knowledge of the facts therein set forth, he knows that they are true in substance and in fact, and that he has no interest in this claim.

WILLIAM B. GRAY.

Subscribed and sworn to before me this 16th day of January, A. D. 1872.

EBENEZER McILVAIN,
Justice of the Peace.

ROLL NO. 15, AFFIDAVIT NO. 33.

STATE OF MICHIGAN, *County of Berrien, ss:*

(Page 7.) George Priest, affiant, being duly sworn, says that he has resided in Niles and vicinity for the forty years last past. That he was well acquainted with Pottawatomie Indians; knew old Chief Pokagon and his band, the Indians of the McCoy mission, and Edward Cowles, whose affidavit is hereunto annexed; that he has carefully read the same, and knows, from his personal knowledge of the same, that the matters therein set forth are true in substance and in fact, and that he has no interest in the claim.

GEORGE PRIEST.

Subscribed and sworn to before me this 16th day of January, A. D. 1872.

EBENEZER McILVAIN,
Justice of the Peace.

ROLL NO. 15, AFFIDAVIT NO. 34.

STATE OF MICHIGAN, *County of Berrien, ss:*

(Page 8.) William B. Buson, affiant, being duly sworn, says that he is sixty-two years of age; has resided in Niles since 1831. Remembers the Chicago treaty, and that Pokagon resided on Indian reservation opposite Niles, and did not go west with the Pottawatomies, but went with his people to Cass and Van Buren Counties, Michigan. Has known Edward Cowles since 1840.

WILLIAM B. BUSON.

Subscribed and sworn to before me this 17th day of January, A. D. 1872.

EBENEZER MCILVAIN,
Justice of the Peace.

NOTE.—Attached to this roll is the official certificate, under seal, of Chas. E. How, clerk of the county of Berrien, and the circuit court of said county, certifying that Ebenezer McIlvain is a duly commissioned justice of the peace in and for said county, &c., &c.

CHAS. E. HOW, *Clerk.*

By way of concession and compromise, it is agreed that 60 sections of the above 164 sections, at $1 25 per acre, will be satisfactory for this item of our claim, although it is shown that we were the sole occupants of the 49 sections near Niles, and the one-half of the remaining, which would make our claim for 106½ sections.

It will be noticed that, by the treaties of 1836, (see exhibit in original memorial,) the United States paid $94,006 for 144 sections, purchased by treaty of our people, (which, being subsequent to 1833, with the $32,150 of 1846, are not included in our claim.)

It appears, by reference to page 1192 of volume 12, and page 763, volume 14, United States Statutes, that the Government has, by treaty with our people, provided for the final payment, upon the bases of their present value, of all the perpetual annuities.

The perpetual annuities due our people, and in and to which we are so well established in our vested rights by the authorities hereinbefore cited and considered, are, as shown by Hon. F. A. Walker, present Commissioner of Indian Affairs—

PERMANENT ANNUITIES.

As per 4th article treaty August 3, 1795, (7 Stat., p. 51,) payable in silver...	$1,000 00
As per 3d article treaty September 30, 1809, (7 Stat., p. 114,) payable in silver	500 00
As per 3d article treaty October 2, 1818, (7 Stat., p. 118,) payable in silver..	2,600 00
As per 2d article treaty September 20, 1828, (7 Stat., p. 317,) payable in money	2,000 00
As per 2d article treaty July 29, 1829, (7 Stat., p. 320,) payable in specie...	16,000 00
As per 2d article treaty September 20, 1829, (7 Stat., p. 317,) and 10th article treaty June 5 and 17, 1846, (6 Stat., p. 855).....	300 00
As per 3d article treaty October 16, 1826, (7 Stat., p. 296;) 2d article treaty September 20, 1828, (7 Stat., p. 317;) and 2d article treaty July 29, 1829, (7 Stat., p. 320,) for blacksmith, iron, steel, &c.....	2,820 00
As per 2d article treaty July 29, 1829, (7 Stat., p. 320,) for salt.....	437 50
Total amount of permanent annuities.....	25,557 50

(See Ex. Doc. No. 151, second session Forty-second Congress.)

The present cash value of the same, at 5 per cent., is $511,150. Two thousand five hundred and eleven Indians; 321 *per capita* proportion of the same $65,339 55.

Aggregated items of our claim:

Balance due as arrears on annuities.....	$155,699 02
Due on sales of 164 sections reserves.....	48,000 00
Due as our *per capita* proportion of the capitalized perpetual annuities...	65,339 55
Aggregate of claim.....	269,038 57

Appropriated in 1868 for 1869, (see United States Statutes at Large, volume 15, page 213):

For 600 Pottawatomies, being their proportion of the present cash value of their annuities	$207,564 22
For 600 distribution shares of the funds of the nation, (in coin)	110,091 74
	317,655 96

Similar appropriations are being made from year to year.

By way of a brief but significant comparison, we would state that in 1869 the Government gave $317,655 96 in cash, and 160 acres of land, to each head of families, and 80 acres to all other persons, which amounted to some 56,000 acres, with a cash *per capita* of $529, as their proportion of annuities and tribal funds alone, not including any arrears or moneys arising under treaties for purchase of lands.

While your memorialists receive but $853, including their great arrears, the capitalized annuities pay for 164,960 acres of land, involving a full and final settlement with their Government, and retiring from all treaty benefits to the brighter and happier relation of citizens of their guardian Republic.

We have not presented our claim under the full breadth of Commissioner Smith's decision cited. Had we done so, and presented our claim for our share of the proceeds of the sale of the five million tract in Iowa, it would have increased our claim greatly, and entitled us to 160 acres to each head of family, and 80 acres to all other persons. But this involves a grave question of trust, and our plain claim is for all annuities prior to 1833, under the plainest possible construction of the treaty of 27th September, 1833.

And we now submit our claim, confidingly trusting that our great, just, and Christian Government and guardian will not fail or refuse to speedily respect her own treaties, decisions, and authorities, and, being herself the accountant by whom we establish our claim, honorably and early adjust and pay our just claim; as we will ever pray.

And hereby indorse to your honorable bodies W. N. Severance, of South Bend, Indiana, of our counsel.

Most respectfully submitted.

SIMON POKAGON,
SETON MOTY,
LITTLE SETON MOTY,
BILLY AUGUSTA,
JOHN CUSH-AU-WA,
MAT-WASH-MAH,
ANTHONY C. LOBARDIE,
CHAS. THEO. CHANDONIA,
Business Committee of Memorialists.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 138.

UNIFORM TAX ON TOBACCO.

PETITION

OF

WORKMEN OF PETERSBURGH, VIRGINIA,

FOR

A uniform tax on tobacco.

MARCH 20, 1872.—Referred to the Committee of Ways and Means and ordered to be printed.

Whereas the inaction of Congress has kept, and is still keeping thousands of hard laborers—poor men and their families—out of employment, and the tobacco trade would be fostered and maintained by putting on the manufactured article the lowest possible rate of taxation, and a uniform rate, say 16 cents per pound: Therefore,

Resolved, That the operatives in the tobacco manufactories of the city of Petersburgh do most earnestly petition Congress to act at once upon the rate of taxation to be put upon manufactured tobacco, and that the tax be made uniform at the rate of 16 cents upon the pound.

Resolved, That a committee of eight hard laborers in the tobacco manufacture be appointed, who shall obtain the signatures of all those employed in the Petersburgh factories, and the names of their employers, and shall proceed to Washington with the said petition, lay the same before Congress, through the Virginia delegation, or any of them, and urge them to ask of Congress its earnest attention to this most important matter; to show them how the unequal tax, high on plug and low on low grades, works against Virginia tobacco, and loads the market with poor goods, and kills the Virginia goods, and robs the men that work in Virginia tobacco.

Resolved, That these resolutions be published in the daily papers, and that a copy be sent to each Representative from this State, and a certified copy be sent by the secretary to our Representative, Hon. James H. Platt, jr., and that, thanking him for the interest he has already taken in this matter, we solicit a renewal of his efforts, that Congress may be brought to act at as early a day as possible upon this question.

On motion, the following sub-committee was appointed to recommend to the chairman a proper delegation:

William Robert Penn, Willliam Smith, Moses Shields, Henry A. Washington, Isaac Thompson, Albert Patterson, Dempsey Cloeman, Gabriel Smith, James Green, and Jacob Thompson.

We, the undersigned, employés in the tobacco manufactory of Robert C. Osborne, earnestly indorse the resolutions passed at a general mass meeting of manufacturers and employés, held in the city of Petersburgh, Virginia, March 13, 1872, and beg your careful consideration and speedy attention, as upon your action depend our meat and bread.

Very respectfully,

Albert Davis.
Jim Campbell.
Jim Lawton.
Henry Gholson.
Jim Hastings.
Joe Green.
Sam Butler.
Reuben Johnson.
R. Penn.
Wm. Green.
F. Cates.
Wm. Smith.
George Larin.
Jim Hougner.
Cornelius Robinson.
Simon Chaws.
Eggleston Jones.
Amistead Pearce.
Alfred Berry.
Anderson Woodson
Robt. Alkins.
Alfred Epey.
Horace Taylor.
Peter Massonberg.
John Goode.
Susan Jones.
Sam Tabb.

Albert Wymern.
Julius Walker.
John Brown.
John Tabb.
John Jones.
Tom Harris.
Daniel Morn.
Jenkins Green.
Sam Johnson.
Lee Holloway.
Ben Jones.
Ben Veik.
Dick Eppey.
Anton Taliafero.
Gains Jones.
Hezekiah Owens.
Andrew Willson, jr.
Isham Watkins.
Dick Devhent.
George Miscomb.
Joe Jones.
Wm. Haines.
Mary Lancaster.
Mary Baugh.
Lucy Jones.
Charlotte Palmer.
Rev. Parham.

Mill Bolling,
Hannah Jefferson.
Betsey Parham.
Martha Jones.
Mary Hayson.
Nancy Jackson.
Lizzy Jackson.
Emma Smith.
Mary Smith.
Lucinda Smith.
Louisa Smith.
Magt. Brown.
Rev. Robinson.
Rev. Bowman.
Nancy Henderson.
Lizey Boon.
Lizy Hayson.
Ellen Jones.
Letty Lomax.
Delila Roberts.
Juno Thomas.
N. Randall.
Austin Brooch.
Jim Young.
Wm. Walker.
John Tabb.

List of hands in S. W. Venable & Co.'s tobacco factory who are in favor of the reduction of the tabacco tax, and who pray that your honorable body will reduce the same:

Ewd. Tabb.
Chas. Black.
Kit Montague.
Jas. Williams.
Joe Munford.
Sam Monich.
Harriet Starks.
Peter Berry.
Alex. Lively.
Latanus Nichols.
Jacob Miles.
Isaiah Kate.
Jno. Hill.
Rod Harris.
Robt. Lanear.
Henry Taylor.
Ewd. Tompkins.
Chas. Baugh.
Wm. King.
Wm. Harris.
Nelson Starke.
Rich'd Davis.
Davy Williams.
Jas. Brown.
Mike Spencer.
Nelson Swan.
Luther Parham.
Wm. Brown.

Geo. Watkins.
Wm. Pettiford.
Peter Rookins.
Theo. Hastings.
Jessie Brown.
Tom Berry.
Martha Hastings.
Jas. Smith.
Matt. Coleman.
Jno. Jackson.
Jno. Gary.
Sydnor Wright.
Tom Butler.
Davy Penn.
Chas. Parham.
Alfred Randel.
Jas. Parham.
Jas. Marshall.
Lewis Carter.
Jas. Wilson.
Robert Penn.
Ben. G. Lancaster.
Wm. Dunlop.
Tom H. Montague.
Geo. D. Wise.
Sandy Taylor.
Benj Robinson.
Robt. C. Crump.

Francis Eanes.
Jennie Toddy.
Wilder Eanes.
Bettie Parrish.
Mary Stevens.
Lizzie Lufsey.
Wm. Taylor.
Anderson Wood.
Crawley Johnson.
Horace Mason.
David Gray.
Andrew Graumar.
Spengfield Woodley.
Alonzo Munford.
Henry Wood.
Gus Hall.
Alfred Hall.
Thad. White.
Ewd. Fisher.
York Wingfield.
Richd. Marshall.
A. Valentine.
Tony Gibbons.
John Thomas,
Robt. West.
Tom McCray.
Thos. Scott.
Ewd. Kelley.

Jas. Thomas.
Nick Jackson.
Wm. Givens.
Wm. Wells.
Stephen Howard.
Adkins Johnson.
Peter Beard.
Danl. Jones.
Jno. Gilliam.
Junius Smith,
John Stith.
Harry Pollard.
Elijah Venable.
Alex. Peterson.
Royal Bland.
Theo. Allen.
Kit Montague, jr.
Wm. Crump.

C. A. JACKSON & CO.'S FACTORY.

We, the hands whose names are subscribed below, are in favor of a uniform tax on all grades of manufactured tobacco, whether plug, fine-cut, fine-cut shorts, or smoking, or any other description :

Matthew Owens.
John Jackson.
Wm. Taylor.
Cornelius McCray.
Jim Smith.
Geo. Henderson.
Archer Jones.
Leroy Davis.
John Hanson.
Jim Hill.
A. Woodson.
Joe Brown.
J. Jones.
E. Fields.
Wm. Brown.
John Rivers.
Sam Tabb.
Bursey Harris.
John Hill.
Jim Owens.
Rob't Jones.
H. Bolling.
J. Williams.
Wm. Scott.
A. Henderson.
J. Brown.
A. Hamlin.
J. Thompson.
J. Henderson.
R. Crump.
D. George.
Geo. Washington.
Henry Goode.
Jim Mabry.
Sarah Lee.
Mary Lufsey.
Virginia Eanes.
Mrs. Green.
Ida Williams.
M. Traylor.
Simon Boyd.
Sam Williams.
Wm. Bonnor.
Acquil Mac.
Monroe Love.
Wm. Green.
Henry Evans.
John Butts.
Tom Martin.
Jim Coleman.
Ned Carter.
Duglas Ellis.
Wm. White.
Wingfield Jones.
Tom Cooper.
Davy Woodson.
Henry Graves.
Tim Bailey.
Jim Rives.
Ellison Cheatham.
Algon Epps.
Rich Mallory.
L. Miller.
I. Rockwell.
C. Thomas.
P. Hargraves.
J. Pickadie.
Jim Murray.
Betsy Dinkings.
Sarah Alburn.
Celie Dinkings.
Agnis Johnson.
Mary Baily.
Lucy Mabry.
Ann Dandridge.
Sarah Owens.
Eliza Owens.
Sarah Thompson.
Betsy Berry.
Martha Tucker.
Jane Cooper.
Lucy Scott.
Nancy Tabb.
Mary Stewart.
Henrietta Jackson.
Lucy Jackson.
Taylor Williams.
Chas. Lynch.
Granderson Gray.
Emmett Page.
Lewis Bird.
Crawley Mitchell.
Daniel Stewart.
Wesley Brewer.
Lot Randolph.
Bob Branch.
Willis Gilliam.
Dick Jones.
Waverly Tompkins.
Daniel Yates.
Henry Jones.
Wm. Oters.
Cabb Jones.
Archer Randolph.
Walter Hastings.
Dugley Jackson.
Wingfield Early.
Wm. Banks.
Jim Sykes.
Jim Powers.
Tom Johnson.
Henry Walker.
Tom Harris.
Marcellus Traylor.
Robt. Traylor.
Jim Watkins.
Alfred Wigings.
Peter Brown.
Joe Scott.
Tim White.

List of hands employed in the tobacco manufactory of Watson & McGill, Petersburgh, Virginia, who are in favor of a uniform tax on manufactured tobacco:

James Henry Harris, his x mark; witness, Jno. W. Winful.
Hezekiah Jones.
Robert White.
Stephen Cooper.
John Maby.
William Robertson.
Robert Owens.
Emmett Cate.
James Thomas.
George Randolph.
Frank Cox.
Phillip Goode.
Thomas Walker.
Asa Heath.
Wm. Finney.
Cornelius Giles.
Jim Nash.
Edmond Randolph.
Nathaniel Taylor.
Louis Phillips.
Albert Finney.
Washington Jones.
Henry Watkins.
John Fisher.
Nelson Ruffin.
Lazarus Whitfield.
Joe Henry Mabry.
William Willis.

John T. Branch.
James T. Mabry.
James Smith.
Johnson Matthews.
Emmett Wells.
James E. Fields.
Albert Patterson.
Chas Bland.
Thos. Jones.
Boswell Johnson.
Wm. Lively.
James Owens.
Wiley Jones.
James Gill.
Washington Allen.
Henry Smith.
John Diggs.
John Chavers, jr.
Cor. Mabry.
James Finney.
Wm. Brown.
Edward Lewis.
Aaron Tucker.
Peter Scott.
Richard Gulian.
Richard Williams.
Wm. Seward.
Wm. T. Brom.
Geo. Williams.
Jim H. Carter.
Frank Johnson.
James Pleasants.
Edmond Harris.
James Stuart.
John Robinson.
John Woodruff.
John Pellam.
John R. Catlett.
Robert Eppes.
Wm. Branch.
Wm. Friend.
Jno. Dodson.
Chas. Crallie.
Warner Harrison.
Christ. Harrison.
Allick Edwards.
Wm. Lattimore.
Edinboro Budd.
Jno. Tucker.
Theo. Brown.
Wm. Henderson.
Boyd McRae.
Anderson Carrington.
Ephraim Jones.
The. Banks.
Henry Bennett.
Edmond Lawson.
Stephen Briggs.
Nathan Crown.
Thomas Gates.
Robert Cooley.
James H. Stewart.
Sam Pelham.
Jesse Mabry.
Jno. Jasper.
William Smith.
Thomas Hardy.
King Walker.
Henry Harrison.
Jno. Harris.
Emanuel Wilson.
William Thomas Abbey.
Ezekiel Phinney.
Geo. Randolph, jr.
Ellick Randolph.
Robert Henry Giles.
Chas. Patterson.
R. H. Drew.
Whit. Shomers.
Daniel Williams.
Munro Butcher.
Jo. Bloomer.
David Jones.
Edward Wright.
Jno. Olliver.
Chas. Baker.
Albert Clark.
Edw'd Gibson.
Geo. Tucker.
Emmet Robinson.
Solomon Flemming.
Chas. Gardner.
Tom Clarke, jr.
Sam'l Jones.
Jno. W. Lewis.
Rich'd Alexander.
Benjamin Willis.
William Brown.
Tom Mason.
Waverly Shaw.
Jim Harris.
Nelson Nix.
Marg't Edwards.
Rachael Jones.
Hannah Fagin.
Mary Thomas.
Sally Valentine.
Mary Cox.
Mary Whitfield.
Roanna Merritt.
Ann Lattimore.

List of men employed in the manufacture of tobacco at the manufactory of J. P. Williamson, Petersburgh, Virginia, who are in favor of a uniform rate of tax on all manufactured tobacco:

John M. Thomas.
James Cotton.
Joseph P. Venable.
Henry Jones.
Nicolas Mabry.
Peter Mabry.
Osco Hammet.
Archer Robertson.
Wm. Jones.
Cornelius Mason.
Wm. Thomas, (white.)
Charles Coleman.
John Griffin.
James Scott.
Charles Jones.
Geo. Pritchard.
Charles Thomas, (white.)
Charles Sturdevant.
Robert Marap.
J. W. Jordan, (white.)
George Temple.
Ed. Bland.
J. Henry Bonner.
P. Swane.
Lorenzo Nugent, (white.)
David Nugent, (white.)
Sam'l Butler.
Albert Cook.
Joseph Bacon.
Wm. Strachan.
Ned Burton.
Thos. Sturdevant.
Wm. Holmes.
Isaac Washington.

List of men employed in the manufacture of tobacco at the manufactory of C. W. Spicer, Petersburgh, Virginia, who are in favor of a uniform rate of tax on all tobacco:

Austin Hill.
Peyton Harrison.
George Clements.
William Bowser.
James Johnson.
Wm. Bishop.
Mansfield Robinson.
Henry Lewis.
Wyatt Mason.
Wm. Freeman.
Wm. Nunnally.
Frank Cardwell.
Oderick Harrison.
Sydney Coleman.
Filmore Thweatt.
Peter Powell.
Peterson Claiborne.
Edward Branch.
Henry Stich.
Simon Cary.
John Drewry.
George Morris.
Robert Jefferson.
Gabe Hinton.

Albert Strachan.
Jno. Bolling.
James Bolling.
Lewis Jasper.
William Diggs.
Henry Jones.
Jacob Thompson.
Joseph Wright.
Henry Jackson.
William Jasper.
Peterson Brown.
William Tatum.
John Steward.
Henry Cole.
George Cousins.
John Moss.
Americus Gilmore.
William Abbey.
Shedrack Boss.
Ned Shelly.
Ro. Johnson.
Ellis Mayo.
James Polk.
Leroy Davis.
Edmond Jones.
Authony Ryalls.
Jno. Merritt.
William Taylor
Jno. Satchfield.
William Burton.
F. Slaughter.

List of men employed in the manufacture of tobacco at the manufactory of J. C. Donald & Co., Petersburgh, Virginia, who are in favor of immediate action and uniform tax on all tobaccos:

Nathan Scott.
Sam Cambell.
Ruben Johnson.
Tom Sturdevant.
John Newton.
Richard Adams.
Robert Balling.
Isaac Black.
Henry Washington.
Andrew Jackson.
Sam Gilliam.
F. Eanes.
Wm. Finney.
Ed. Lamb.
George Parkins.
George Coleman.
Theo. Bland.
Jas. Talefero.
George Hendrick.
Wm. Winfill.
Female help.
Ten women.
Four children.

We, the undersigned employés in the tobacco manufactory of Messrs. D. B. Tennant & Co., earnestly indorse the resolutions passed at a mass meeting held in the city of Petersburgh, Virginia, March 13, 1872, and hope that your honorable body will act speedily and in accordance therewith, as upon yourselves devolves a relief from great personal suffering.

Very respectfully, &c.,

Louis Smith.
Henry Scott.
Jas. Sanders.
Edward Mechum.
Cornelius Ross.
E. Sykes.
Jas. Walker.
H. Williams.
Sach Swan.
Wyatt Hopper.
S. Butler.
Frank Ross.
Thos. Harris.
John Dilliard.
Peter Tony.
David Smith.
John Dunn.
William Smith.
D. Colman.
Nathan Jones.
E. Swan.
Dick Brown.
Ned Pace.
Mathew Thomas.
Wyatt Alfriend.
Mathew Thomas.
John Rolins.
Wm. Winstone.
Edmond Baugh.
Thos. Stokes.
Richard White.
Joe Artiss.
Peter Brown.
Elias Albert.
Ned Mumford.
Arther Monroe.
Daniel Black.
Wm. Thomas.
John Jackson.
Bob Scott.
Oliver Danridge.
Emet Jones.
Wm. Nash.
Isaac Walker.
Thos. Jackson.
Bob Copper.
Moses Jett.
Wm. Page.
Jim Danridge.
Cad Jones.
Lee Hinton.
Wm. Hinton.
Jim Johnson.
Walker Roberts.
Isaiah Goode.
Jim Hill.
A. Jones.
John Brown.
John Ruffin.
Daniel Carter.
Tom Chambliss.
Dick Mayo.
John Randell.
German Chatman.
Isaac Thompson.
Collier Tabb.
Oliver Banks.
Hy Jones.
Lewis Wyatt.
Capt. Foster.
Cornelius Early.
Geo. Woody.
Solomon Dykes.
Tom Brown.
Geo. Parham.
Douglas Ellis.
John Fountain.
Davy Gates.
Wm. Green.
Kiah Jones.
Autor Tatum.
Sam Twine.
Allen Bland.
Chas. Frazer.
Jackson Brown.
Anthony Banks.
W. Jones.
Randal Ford.
Fred. Jackson.
Geo. Carter.
Jim Jones.
Calhoun Jones.
Joe M. Kerg.
Jas. Coleman.
Wash. Jackson.
Tom Jordan.
Frank Dodson.
John Hastings.
Tom Wells.
Sam McKerzie.
Moses Coleman.
Tom Valentine.

Stephen Jones.
Bob Green.
N. Jeffries.
Hy Valentine.
Wm. Monticeu.
Sam Smith.
Emet Randal.
Chas. Banks.
Thos. Logan.
Pompey Logan.
Willis Gilliam.
Squire Holins.
Bob Swan.
Alick Holmes.
Plesant Williams.
Tom Johnstone.
Mary Brooks.
Betsey Berry.
Easter Barrows.
Polly Ruffin.
Georgia Jones.
Betsey E. Berry.
Lucy Scott.
Warrington Early.
Dick Stringfellow.
Junius Jones.
Georgia Jones.
Wm. H. Smith.
Mary Brown.
Dinah Jones.
Rebecca Jones.
John Dilliard.
Anna Dilliard.
Eliza Toney.
Eliza Williams.
Nelson Swan.
Frances Hopper.
Elisabeth Scott.
Elisabeth Walker.
M. Page.
Susan Carter.
Ida Randall.
Geo. Colman.
Elisabeth Coleman.
Geo. Coleman.
Elisabeth Ross.
Joe Wright.
Mary Brown.
Jack Burrell.
Martha Swan.
Jeff Reid.
Mary Williams.
Mary Brander.
John Alfriend.
M. Thomas.
Laura Williams.
Ambus Carter.
Wm. Thomas.
Hy Bolling.
Noah Holmes.
James Preston.
Wm. Tuker.
Mary Roberts.
Epriam Fields.
Wm. Jose.
Ruth Hamlin.
Anthony Gilliam.
Jas. Powell.
Chas. Hamlin.
Sam Harris.
Nancy Melson.
Joe Spencer.
Louisa Page.
Henry Hill.
Cornelius Jackson.
Pink Dancerfield.
Sarah Aulbert.
Maurinda Williams
Emmet Prior.
John Henry.
Tempy Ramsy.

We, the undersigned, who are employés in the factory of Messrs. Marlin & Fish, earnestly indorse the resolutions passed at a mass meeting held in the city of Petersburgh, Virginia, March 13, 1872, and hope they will command your speedy attention.

James Green.
Nathaniel Page.
Edward Mumford.
James Smith.
Thomas Stokes.
Samuel Campbell.
Joseph Artist.
Benjamin Moss.
John Bolling.
Albert Straughan.
Americus Gilmore.
George Williams.
Arthur Monroe.
James Williams.
Robert Thompkins.
Albert Johnson.
Henry Randall.
Dick Wells.
Daniel Moore.
Charles Draper.
Thomas Smith.
Antony Coles.
John Parham.
Hobson White.
Lee Holloway.
William Abbie.
John Johnson,
Charles Gardner.
Benjamin Holmes.
Douglas Archer.
James Jackson.
Henry Stokes.
George Short.
John Turner.
Albert Berry.
James Brander.
William Crowder
William Scott.
Walter Smith.
John Alfriend.
Edmond Johnson.
William Stokes.
Lemuel Butler.
William Green.
Henry Turner.
Daniel Eppes.
Ned Williams.
John Spratley.
Henry Cock.
Nathan Woodley.
George Berch.
Davy Ates.
Alex. Davis.

We, the undersigned, employés in the tobacco manufactory of William Long, cordially indorse the resolutions passed at a general meeting of employés in tobacco manufacture, and beg your most honorable attention, and special relief from scarcity of labor and personal suffering.

Very respectfully,

Jas. Blankenship.
Jack Taylor.
William Wells.
John Handley.
Bainey Gaines.
B. Clay.
Sarah Gee.
Sally Okson.
Nancy Williams.
Millie Hall.
Susan Clay.
Lucy Jones.
Ed. Lee.
Polly Gannor.
Ellen Wright.
Rose Gibson.
Hester Walker.
Harriet Morris.
Jean Baker.
Martha Robertson.
Puss Morris.
Mary Jackson.
Willie Harris.
Milley Chappell.
Ellen Holmes.
Puss Janson.
Lina Davis.

Emma Jackson.
Pink Charty.
Mary Carter.
James Rutte.
Junius Green
S. Patterson.
S. Sims.
Geo. Beasley.
Willie Hubbard.
Wm. Walker.
Peter Walker.
S. Watson.
A. Walker.
James Oliver.
Wm. P. Taylor.

WM. CAMERON & BROTHERS' FACTORY, BROWN STREET.

John White.
Pleasant Jackson.
Wm. Steward.
Isac Wilson.
John H. Markis.
Walter Scott.
George Banks.
Jim Givens.
Buck Kate.
Wm. T. Scott.
Anthy Robertson.
Wm. Reeves.
Hy Thornton.
Robt. Tompkins.
Alb't Johnson.
Daniel Mumfort.
Tom Smith.
Jim Hill.
Tom Mathers.
John Gregory.
Sam Jones.
Stephen Cameron.
John Henderson.
Lenus James.
John Rivers.
Matthew Owens.
Corn'ls McCrae.
Jack Hill.
Joe Henderson.
Jim Smith.
Peter Taylor.
George Taylor.
John Hill.
Wm. Griffin.
Aaron Colman.
Isham Cairy.
John Nash.
Phill Adkins.
Peter Howard.
Henry Holliway.
Joe Perkins.
Solomon Sykis.
Stephen Wright.
Mulis Walker.
Dick Jones.
Aaron Briggs.
David Epps.
Dick Harris.
Monroe McCoy.
Freman Cook.
David Freman.
Stephen Edler.
Anthony Bird.
Alb't Bird.
Jack Steward.
Armstead Fleming.
Alick Clark.
Geo. Jones.
Joe Lee.
Dick Smith.
Wm. Thomas.
Tom Butcher.
Jim Freman.
Jim Sweet.
Sam Camill.
Emanuel Brown.
Dick Bass.
Henry Goode.
Ned Morris.
Moses Walker.
Isham Jones.
Chas. Fields.
Dempsey Colman.
Seth Jeter.
Wm. Kidd.
Dick Montague.
Nich'ls Bough.
David Macky.
Edman King.
Wm. Terpin.
Joe Milis.
Jim Green.
Tom Goode.
Dick Cosby.
Robt. Swarn.
Robt. Jones.
Sandy Duke.
Wm. Jeter.
John Newton.
Henderson Evenns.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 139.

DIRECT IMPORTATIONS.

MEMORIAL

OF

THE NATIONAL BOARD OF TRADE,

URGING

Such amendments to the act of July 14, 1870, *in regard to direct importations, as will include wines and distilled spirits in the advantages conferred by section twenty-nine of said act, and such regulations as will simplify the required entry at the port of arrival, allowing the goods to be forwarded without delay to the port of destination, as contemplated by said act. Also asking that the port of Mobile shall be added to those included in the privileges granted by said act.*

MARCH 22, 1872.—Referred to the Committee on Commerce and ordered to be printed.

SAINT LOUIS, *December* 11, 1871.

The National Board of Trade would represent that the act of July 14, 1870, commonly called the "new port of entry law," has been put into practical operation during the past year, and large quantities of imported merchandise are being delivered to the interior cities of the country without appraisement by the officers of the Government at the sea-ports; also, that the regulations of the Treasury Department have been promptly amended, from time to time, to facilitate the operations of the law, whenever the fact that changes have been needed has been properly brought to the notice of the Secretary.

The advantages under this law already secured to the importer of the interior are so great, manifest, and undisputed, that the national board cannot but congratulate Congress on the wisdom of its action, which has put them on so good a basis; they not only facilitate the transaction of business, but, by the saving of time and expensive handlings at the outer ports, guarantee to the consumer the foreign article at a reduced cost.

It is the duty of the board, however, to state that, in its opinion, additional legislation is needed to remove certain restrictions now placed on direct importations, which are believed to be unnecessary hinderances, in that they do not in anywise afford additional security to the Government in its collection of the revenues. These are as follows:

1st. Section twenty-nine of the act of July 14, 1870, forbids the privileges of the act to "wines, distilled spirits, and articles in bulk." Relative to wines and liquors, the board cannot believe these to be wise or needed exceptions, holding that the inviolability of the packages con-

taining them is as well secured by the provisions of the law as is that of any other description of imported package. So far as bulk goods are concerned, it is recommended that discretionary power be vested in the Secretary of the Treasury to authorize the transfer, under this act, of such as he may deem it not improper to be thus forwarded; for example, salt, pig-iron, &c.

2d. The concluding clause of section thirty-two of said act forbids the transfer or reshipment of the merchandise under transit between the port of first arrival and final destination.

This difficulty, so far as it has affected railroad interests, has been met by the Secretary of the Treasury by providing for reshipments or transfers from cars of one gauge to cars of a different gauge, in a manner affording entire protection to Government, as well as accommodating the common carrier.

This same privilege should be extended to water-routes; and any carrier, bonded under the law, should be permitted to transfer the merchandise to any other carrier bonded under the same law, so long as the second carrier is in the direct line of transit to the port of destination, and the transfer is made in such manner as the Secretary of the Treasury may prescribe.

This would enable the carrier on the rivers to transfer to the carrier on land, whenever a good and sufficient reason for so doing may exist, such as a blockade of navigation by ice, low water, &c.

3d. Section twenty-nine of the said act of July 14, 1870, provides that the entry to be made at the port of first arrival shall set forth the particulars of the importation in such manner that the merchandise can be compared with the ship's manifest and the invoice. These are eminently proper and necessary requirements; but under the seventh article of the Secretary's regulations the agent of the importer is required to make his entries as full, explicit, and detailed as is required in an entry for consumption, noting contents of packages in detail, the value of each package, &c., and making the preparation of the papers a complicated and expensive labor.

It is suggested that the Secretary of the Treasury be requested to amend this regulation so that the description of the merchandise in the entry at port of first arrival may be as short, comprehensive, and concise as it is possible to make it, the comparison by marks and numbers of packages being sufficient to identify them.

4th. By some inadvertence the port of Mobile, Alabama, was omitted from section twenty-nine of the law, and merchants in the interior are debarred from importing under this act through that port. The board would urge the necessity of having the omission corrected.

The foregoing are believed to embrace the only essential difficulties which need remedy by action of Congress, and the National Board of Trade would respectfully ask that the immediate attention of Congress may be given to them, in order that the importers of the interior may derive, to the fullest extent, the benefits which it was intended should inure to them by the passage of the law referred to.

And, as in duty bound, &c.

By unanimous vote of the National Board of Trade.

FRED. FRALEY,
President.

HAMILTON A. HILL,
Secretary.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 140.

EXPENDITURE OF JUDICIARY FUND.

LETTER

FROM

THE ATTORNEY GENERAL,

ADDRESSED TO

HON. JAMES A. GARFIELD, CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS,

WITH

Exhibit of expenditure of judiciary fund from July 1, 1871, *to March* 1, 1872.

MARCH 21, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

DEPARTMENT OF JUSTICE,
Washington, March 19, 1872.

SIR: In compliance with your request, I inclose herewith a detailed statement of expenditures from the judiciary fund since the first day of July last.

Very respectfully, your obedient servant,

GEO. H. WILLIAMS,
Attorney General.

HON. JAMES A. GARFIELD,
Chairman Committee on Appropriations, House of Representatives.

Statement of expenditures made from the judiciary fund from July 1, 1871, *to March* 1, 1872.

States and Territories.	Commissioners.	Marshals.	Attorneys.	Clerks.	Rents.	Miscellaneous.	Total.
Alabama, northern district	$168 30	$13,597 00	$940 60	.....	.....	.....	$14,705 90
Alabama, southern district	72 22	12,056 00	.....	.....	.....	.....	12,128 22
Arkansas, eastern district	194 00	17,715 00	1,640 00	$1,306 75	$700 00	.....	21,555 75
Arkansas, western district	2,249 05	148,809 00	3,291 00	1,607 65	534 00	$180 00	156,670 70
California	310 45	23,700 00	4,045 00	2,694 00	7,000 00	.....	37,749 45
District of Columbia	38 70	44,615 00	7,133 03	.....	.....	119 25	51,905 98
Do	.....	*27,178 96	.....	.....	.....	.....	27,178 96
Connecticut	186 05	4,550 00	724 06	203 25	.....	413 63	6,076 99
Delaware	.....	1,875 00	125 00	226 80	.....	.....	2,226 80
Florida, northern district	87 55	30,866 00	1,076 00	.....	1,000 00	.....	33,029 55
Florida, southern district	.....	5,000 00	.....	.....	500 00	.....	5,500 00

*Expenses of jail.

Statement of expenditures made from the judiciary fund, &c.—Continued.

States and Territories.	Commissioners.	Marshals.	Attorneys.	Clerks.	Rents.	Miscellaneous.	Total.
Georgia	$68 00	$47,350 00	$2,363 80	$755 25	$536 67	$228 00	$51,301 72
Illinois, northern district	100 60	6,229 00	2,100 00	1,899 99	347 50	.....	10,677 09
Illinois, southern district	30 00	15,255 00	450 00	55 00	.....	.....	15,790 00
Indiana	458 45	22,516 98	3,282 97	1,304 15	.....	.....	27,562 55
Iowa	340 75	40,821 00	2,654 60	2,649 50	491 66	.....	46,947 51
Kansas	437 40	59,608 00	2,948 00	3,689 95	370 00	.....	67,053 35
Kentucky	2,124 80	53,950 00	4,689 20	2,539 15	300 00	48 50	63,651 65
Louisiana	680 05	20,000 00	1,870 00	216 85	.....	92 00	22,858 90
Maine	410 25	10,396 00	.....	458 45	57 00	.....	11,321 70
Maryland	1,040 75	27,575 00	2,540 00	420 30	.....	.....	31,576 05
Massachusetts	1,977 25	26,104 00	6,528 00	.....	.....	.....	34,609 25
Michigan, eastern district	540 05	26,607 25	3,136 66	320 80	.....	.....	30,604 76
Michigan, western district	378 75	9,668 00	1,038 20	705 60	1,087 99	.....	12,878 54
Minnesota	701 10	11,555 00	35 00	155 90	550 00	.....	12,997 00
Mississippi, northern district	35 70	22,969 00	3,161 00	40 00	286 00	.....	26,491 70
Mississippi, southern district	467 40	46,773 00	2,759 50	245 00	.....	.....	50,244 90
Missouri, eastern district	486 95	16,115 00	1,670 00	274 45	.....	.....	18,546 40
Missouri, western district	425 10	20,896 15	961 00	388 51	210 00	314 20	23,194 96
Nebraska	534 25	33,938 00	1,530 00	623 40	750 00	.....	37,375 65
Nevada	.....	.....	18 80	242 30	.....	.....	261 10
New Hampshire	41 70	5,060 00	1,085 70	145 50	50 00	.....	6,382 90
New Jersey	339 90	8,493 00	1,576 14	1,525 30	400 00	.....	12,334 34
New York, eastern district	2,161 65	20,000 00	3,620 19	.....	3,500 00	.....	29,281 84
New York, northern district	10,535 37	72,000 00	9,026 34	1,209 20	.....	691 00	93,461 91
New York, southern district	1,625 10	*20,000 00	12,379 20	.....	17,500 00	.....	51,504 30
North Carolina	4,041 47	121,024 00	6,310 50	528 59	.....	751 90	132,856 46
Ohio, northern district	774 40	35,678 00	3,935 00	255 00	.....	.....	40,642 40
Ohio, southern district	1,027 70	22,500 00	4,396 83	.....	300 00	1,121 31	29,345 84
Oregon	.....	8,405 00	481 50	.....	700 00	.....	9,586 50
Pennsylvania, eastern district	519 70	29,445 00	4,295 00	971 63	.....	2,862 60	38,093 93
Pennsylvania, western district	133 70	43,226 00	2,325 60	1,610 90	50 00	.....	47,346 20
Rhode Island	.....	5,607 00	498 00	468 25	.....	.....	6,573 25
South Carolina	10,549 52	76,773 77	4,548 19	1,870 60	450 00	1,378 00	95,570 08
Tennessee, eastern district	465 61	32,793 00	854 00	1,271 95	833 00	.....	36,217 56
Tennessee, middle district	731 75	26,543 00	3,216 10	1,005 50	.....	.....	31,496 35
Tennessee, western district	1,850 20	45,000 00	2,958 33	937 50	.....	.....	50,746 03
Texas, eastern district	434 15	.....	1,022 00	515 30	600 00	.....	2,571 45
Texas, western district	228 80	16,125 00	540 45	244 65	1,000 00	106 45	18,245 35
Vermont	126 65	11,084 00	1,307 80	560 85	.....	.....	13,079 30
Virginia, eastern district	1,138 20	19,305 00	2,700 40	1,926 90	.....	.....	25,070 60
Virginia, western district	1,044 60	35,511 00	3,214 40	1,518 75	.....	.....	41,288 75
West Virginia	123 40	10,058 00	2,527 80	669 70	.....	.....	13,378 90
Wisconsin, eastern district	271 35	14,250 00	372 00	429 00	.....	.....	15,322 35
Wisconsin, western district	77 05	15,441 00	1,486 40	2,317 34	.....	.....	19,321 79
Arizona Territory	68 80	12,296 00	370 00	90 30	66 70	.....	12,891 80
Colorado Territory	24 80	20,000 00	322 50	592 10	300 00	.....	21,239 40
Dakota Territory	170 50	49,125 50	1,551 70	949 40	760 00	.....	52,457 10
Idaho Territory	.....	10,032 05	177 00	135 00	500 00	.....	10,844 05
Montana Territory	38 75	12,083 15	791 00	471 10	708 34	.....	14,092 84
New Mexico Territory	40 00	22,892 00	1,526 50	849 54	.....	.....	25,308 04
Utah Territory	.....	18,500 00	.....	15 00	.....	.....	18,515 00
Washington Territory	26 15	24,747 00	1,005 00	597 20	.....	.....	26,375 35
Wyoming Territory	9 65	4,500 00	825 58	524 15	825 00	.....	6,858 80
Total	53,190 54	1,716,226 01	145,338 71	46,048 90	43,763 84	8,306 84	2,012,874 84

* Additional requisitions for $45,235 received from the marshal of southern district of New York, but not filled for want of funds.

NOTE —Of the amount of miscellaneous expenses, there was used for support of United States prisoners the sum of $5,308 83, which was paid direct from the Treasury, and not included in the accounts of the United States marshals, as is usually done.

NOTE.—The amount advanced to marshals is for the pay of witnesses and jurors, expense of keeping prisoners, his own fees and those of his deputies, fuel, stationery, &c.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 141.

LANDS TO BE RECLAIMED IN SHEBOYGAN COUNTY, WISCONSIN.

[To accompany bill H. R. 2092.]

PAPERS

Relating to bill on this subject.

MARCH 25, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

MEMORIAL TO CONGRESS CONCERNING CERTAIN RECLAIMED LANDS.

To the honorable the Congress of the United States:

Your memorialist would respectfully represent to your honorable body that he is the owner of all the lands adjoining the pond in sections 14, 23, and 26, in township No. 16 north, range 20 east, of fourth principal meridian, in the State of Wisconsin, excepting lots 5 and 6 in said section 14; that he is also the owner of a large tract of marsh-land lying adjoining and west of said sections, and of lands lying east and adjoining the Sheboygan River, where it forms the outlet to said pond; that your memorialist has commenced deepening the channel of said river, for the purpose of draining said lands; that such deepening and draining will probably uncover and reclaim a strip of land on the border of said pond fronting on the lands of your memorialist; that he is bearing the expense of said drainage alone; that the lands that may be so uncovered and reclaimed are now totally useless and valueless for any purpose, but may become fit and useful for agricultural purposes, if so reclaimed; that such reclamation, if made, will be entirely the act of your memorialist; and that he will be justly entitled to be the owner of so much of the same, when so reclaimed, as will lie between the lands now owned by him and the then low-water line of said pond.

Your memorialist further represents that the legislature of the State of Wisconsin has, by an act entitled "An act concerning certain reclaimed lands," approved March 8, 1872, conveyed to your memorialist all the interest of said State in said lands so to be reclaimed, (a certified copy of which act is hereto annexed.)

Your memorialist therefore prays your honorable body to release and convey to him the interest of the United States in and to the lands in the bed of said pond adjoining and fronting upon the lands of your memorialist which may by him be uncovered and reclaimed by drainage.

JOHN BERTSCHY.

SHEBOYGAN, *March* 22, 1872.

Chapter 42, General Laws 1872.

AN ACT relating to certain reclaimed lands.

The people of the State of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. So much of the bed of the marsh and pond in sections fourteen, twenty-three, and twenty-six, township number sixteen north, range number twenty east, of the fourth principal meridian, in this State, as shall be reclaimed by drawing the water therefrom shall be owned and held in fee simple by the owners of the lands adjoining and bounded by said pond and marsh, and who may drain the same to the center or thread thereof. Division of said lands so reclaimed shall be made among said owners according to the rules of law.

SECTION 2. This act shall take effect and be in force from and after its passage.

DANIEL HALL,
Speaker of the Assembly.
M. H. PETTIT,
President of the Senate.

Approved March 8, 1872.

C. C. WASHBURN, *Governor.*

STATE OF WISCONSIN, *Secretary's Office, ss:*

The secretary of state of the State of Wisconsin hereby certifies that the foregoing has been compared with the original enrolled act deposited in this office, and that the same is a true and correct copy thereof, and of the whole of such original.

In witness whereof I have hereunto set my hand and affixed the great seal of the State, at the capitol in Madison, this 19th day of March, A. D. 1872.

[SEAL.]

JOHN S. DEAN,
Assistant Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 142.

SILK MANUFACTURE, PATERSON, NEW JERSEY.

MEMORIAL

OF OVER

EIGHT HUNDRED FREEHOLDERS, MERCHANTS, STORE-KEEPERS, MECHANICS, AND OTHER CITIZENS OF THE CITY OF PATERSON, NEW JERSEY,

ASKING

That no reduction be made in the present duties on silk goods of foreign manufacture.

MARCH 25, 1872.—Referred to the Committee of Ways and Means and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States:

This memorial of the freeholders, merchants, store-keepers, mechanics, and other citizens of the city of Paterson, in the State of New Jersey, respectfully represents—

That the city of Paterson is one of the great centers of the silk manufactures.

That the capital invested in factories and machinery for said manufacture in said city is over ten millions of dollars; thus employment is given by said manufacture, in said city, to over six thousand hands, most of whom are women and young persons, who receive in wages three millions of dollars per annum, whereby a very important class are enabled to live in comfort.

That under the present tariff silk manufacturing has grown up and is now being further developed, new branches of the trade, such as the weaving of dress goods and other fabrics, being added from time to time.

That, in the opinion of your memorialists, a reduction of the present duties of silk goods is inexpedient, and would be highly detrimental to an important and growing branch of industry, which has always received and been developed under the fostering care of foreign governments.

Wherefore your memorialists pray that no reduction may be made in the present duties on silk goods of foreign manufacture.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 143.

BREAKWATER AT TRINIDAD HARBOR, CALIFORNIA.

JOINT RESOLUTION

OF

THE LEGISLATURE OF CALIFORNIA,

ASKING

An appropriation for a sea-wall or breakwater at Trinidad Harbor, in said State.

MARCH 25, 1872.—Referred to the Committee on Commerce and ordered to be printed.

STATE OF CALIFORNIA, *Department of State:*

I, Drury Melone, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of senate concurrent resolution No. 39, A. D. 1872, now on file in my office.

Witness my hand and the great seal of the State, at office in Sacramento, California, the 16th day of March, A. D. 1872.

[SEAL.]

DRURY MELONE,
Secretary of State.
By H. H. RUSSELL,
Deputy.

CONCURRENT RESOLUTION in relation to the construction of a sea-wall, to form a breakwater to provide a place of refuge for vessels coasting on the North Pacific Ocean, on the coasts of California and Oregon.

Whereas there are no reliable harbors for vessels during the winter season, when southerly gales prevail between San Francisco and Columbia River; and as Trinidad harbor is about midway between the places, and easy of access, and would afford shelter for vessels in case of need from the many ports in Mendocino and Humboldt Counties, or vessels in distress on the coast: Therefore,

Resolved by the senate, (*the assembly concurring,*) That our Senators in the United States Senate be instructed, and our Representatives in Congress requested, to procure an appropriation to commence the construction of said sea-wall or breakwater in Trinidad harbor, State of California.

Resolved, That the governor of this State be requested to forward a copy of the foregoing preamble and resolution to our Senators and Representatives in Congress.

Senate concurrent resolution No. 39, passed the senate February 28, 1872.

J. T. FARLEY,
President pro tempore of the Senate.
R. FERRAL,
Secretary of the Senate.

Passed the assembly March 4, 1872.

T. B. SHANNON,
Speaker of the Assembly.
GEO. W. DIXON,
Assistant Clerk of the Assembly.

○

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 144.

PUBLIC LANDS FOR SUPPORT OF PUBLIC SCHOOLS.

JOINT RESOLUTION

OF

THE LEGISLATURE OF CALIFORNIA,

RELATIVE TO

The donation of the net proceeds of the sales of public lands of the United States to the States and Territories in which such lands are situated for the support of public schools.

MARCH 25, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

Whereas union, justice, the general welfare, and the preservation of liberty constitute the declared purposes of the Constitution and of the people of the United States; whereas their great purposes can be fully achieved only when the people shall become universally intelligent, and therefore universally educated; whereas, notwithstanding the donation by Congress to some of the States and Territories of 78,576,802 acres of the public lands for educational purposes alone, it appears that the proportion of illiterate population is steadily on the increase; that a vast portion of the children and youth of the republic are still destitute of adequate means of education; that education in the United States at large is still in its infancy, and sadly neglected; whereas the frightful maladministration of the public lands given by Congress to States and Territories for purposes of education alone has deprived the people of those States and Territories of much of this great resource for the education of their children, entailing the evils of land monopoly, and its consequence, viz, a scattered population too far separated from each other to be able to combine themselves into school districts and too poor to establish private schools; whereas it is self-evident that the right of suffrage has for its corollary the duty of education; that to extend political power to a whole people and allow them to remain ignorant is to commit political suicide; that a civic support of education requires, as its corollary, the instruction of the individual citizen; that an uneducated people, endowed with absolute political power, is an anomaly, in the highest degree dangerous to the liberty, the peace, and the prosperity of a nation; whereas the power over education is one of the powers of public policy, belonging essentially to government: Therefore,

Resolved by the people of the State of California, represented in senate and assembly, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to secure the passage

of an act donating the net proceeds of the sale of the public lands of the United States to the several States and Territories in which such lands are situated, for the support of common schools therein, the sums arising from the sale of lands in each State to be invested in United States bonds, and the interest accruing annually on said bonds to be disbursed, under the authority and direction of the State, in the support of the common schools.

Resolved, That his excellency the governor be requested to forward a copy of the foregoing resolution to each of our Senators and Representatives.

J. T. FARLEY,
President pro tem. of the Senate.
T. B. SHANNON,
Speaker of the assembly.

Senate concurrent resolution No. 23, passed the senate February 13, 1872.

T. J. SHACKLEFORD,
Assistant Secretary of the Senate.

Passed the assembly March 1, 1872.

M. D. BORUCK,
Clerk of the Assembly.

o

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 145.

CHICAGO RELIEF BILL.

RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

RELATIVE TO

The Chicago relief bill now pending before Congress.

MARCH 25, 1872.—Referred to the Committee of Ways and Means and ordered to be printed.

Whereas the lumber interest of the State of Michigan is one of very great importance directly to a large number of our citizens, and indirectly to the whole commonwealth; and whereas there is now pending before Congress a bill known as the "Chicago relief bill," which discriminates unjustly against this branch of Michigan industry; and whereas the said lumber interest has suffered as seriously by the late fires, in proportion to the capital invested, as has the city of Chicago: Therefore,

Resolved, (the senate concurring,) That our Senators in Congress be instructed and our Representatives requested to use all proper means to prevent said "Chicago relief bill" from becoming a law; and the governor is hereby requested to furnish each of our Senators and Representatives in Congress with certified copies of this concurrent resolution.

MORGAN BATES,
President of the Senate.
J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE,
Lansing, Michigan, March 18, 1872.

Approved.

H. P. BALDWIN.

STATE OF MICHIGAN,
Office of the Secretary of State, ss:

I, Daniel Striker, secretary of state of the State of Michigan, do hereby certify that I have compared the annexed copy with the original,

and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Michigan at Lansing this twenty-first day of March, in the year of our Lord one thousand eight hundred and seventy-two.

[SEAL.]

DANIEL STRIKER,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 146.

STANDARD OF SILVER COIN.

JOINT RESOLUTION

OF

THE LEGISLATURE OF CALIFORNIA,

REQUESTING

That the weight of silver coins be raised to the standard of 1850.

MARCH 25, 1872.—Referred to the Committee on Coinage, Weights and Measures and ordered to be printed.

Whereas it is of the utmost importance to the workingmen, farmers, and traders of the Pacific States and Territories that the silver coin of the United States should be raised to the value expressed upon its face: Therefore,

Be it resolved by the senate, (*the assembly concurring*,) That our Senators in Congress be instructed, and our Representatives requested, to urge upon Congress the early passage of a law for raising the weight of silver coin to the standard of the year 1850.

J. T. FARLEY,
President pro tempore of the Senate.
T. B. SHANNON,
Speaker of the Assembly.

Senate joint resolution No. 3 passed the senate February 19, 1872.

T. J. SHACKLEFORD,
Assistant Secretary of the Senate.

Passed the assembly March 1, 1872.

M. D. BORUCK,
Clerk of the Assembly

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 147.

PUBLIC BUILDINGS AT RACINE.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

FOR

A post-office and custom-house at Racine, Wisconsin.

MARCH 25, 1872.—Referred to the Committee on Public Buildings and Grounds and ordered to be printed.

The memorial of the legislature of the State of Wisconsin respectfully represents:

That the interest and convenience of the people of Racine and of this State will be greatly promoted by the construction and erection at that place by the United States of a building for post-office purposes; that upward of twenty thousand people residing at Racine and in its vicinity are supplied with mail matter at said office, and that the business of said office is rapidly increasing; that Racine is a port of entry on Lake Michigan, possessing one of the safest and most capacious harbors on the lake; that its commercial interests are large and increasing; that its vessel tonnage is second only to that of Milwaukee, and larger than that of any other port in Wisconsin except Milwaukee; that Racine is the eastern terminus of the Western Union Railroad, a railroad extending west through the States of Wisconsin and Illinois, and having its western terminus at Rock Island, in said last-named State; that during the season of navigation a large portion of the mail matter from New York, the New England States, Canada, and Northern Michigan, designed for Iowa and Nebraska, is transported via Grand Haven, Milwaukee, and Chicago, and that the Western Union Railroad is a more direct and speedy route than any other established for the purpose of transporting such mail matter; that the present facilities for transacting the business of a post-office and collection of customs at Racine are limited and insufficient, and that the requirements of business demand an enlargement of the same.

Your memorialists, therefore, respectfully ask that measures may be taken and sufficient appropriations may be made for the construction of a suitable building for post-office purposes, and for the transaction of business connected with the office of the collector of customs at Racine.

DANIEL HALL,
Speaker of the Assembly.
M. H. PETTIT,
President of the Senate.

Approved March 15, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 148.

PLACERVILLE RAILROAD.

JOINT RESOLUTION

OF

THE LEGISLATURE OF CALIFORNIA,

PRAYING

That if the Placerville Railroad is not constructed by 1873, *the lands granted in favor thereof be declared forfeited.*

MARCH 25, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

STATE OF CALIFORNIA, *Department of State:*

I, Drury Melone, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of senate joint resolution No. 1, 1872, now on file in my office.

Witness my hand and the great seal of the State, at office in Sacramento, California, the 14th day of March, A. D. 1872.

[SEAL.]

DRURY MELONE,
Secretary of State,
By H. H. RUSSELL,
Deputy.

JOINT RESOLUTION relative to restoring public lands within the twenty-mile limits of the Placerville and Sacramento Valley Railroad to homestead and pre-emption.

Whereas on the 13th day of July, 1866, Congress passed an act entitled "An act granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California," in pursuance of which act all the odd-numbered sections within twenty miles of the line of said railroad were withdrawn by letter of the Commissioner of the General Land-Office, dated August 29, 1867, from "sale or location, pre-emption or homestead entries;" and whereas by the terms of said act it is provided to the effect that in case of failure to commence said railroad within one year of the passage of said act, or of failure to complete the whole of said railroad by the 4th day of July, 1869, that the title to all said lands so granted should revert to the United States; and whereas since the passage of said act said railroad has not been completed, nor has any portion of the same been constructed; and whereas, by letter dated November 22, 1869, the Commissioner of the General Land-Office decided that said grant could not be restored to the public domain without further legislation by Congress: Therefore,

Be it resolved by the senate, (the assembly concurring,) That in case said Placerville and Sacramento Valley Railroad is not completed on or before the 1st day of January, A. D. 1873, that our Senators be instructed, and Representatives in Congress be requested, to introduce and use their influence to procure the passage of such joint resolution or act of Congress as may be necessary to secure the immediate restoration to the public domain of all lands withdrawn for the purpose of aiding the construction of the Placerville and Sacramento Valley Railroad.

Resolved, That the governor is hereby requested to forward a duly certified copy of these resolutions to each of our Senators and Representatives in Congress.

J. T. FARLEY,
President pro tempore of the Senate.
T. B. SHANNON,
Speaker of the Assembly.

Senate joint resolution No. 1, passed the senate December 21, 1871.

T. J. SHACKLEFORD,
Assistant Secretary of the Senate.

Amended and passed the assembly February 29, 1872.

M. D. BORUCK,
Clerk of the Assembly.

Amendment concurred in in senate March 1, 1872.

_____,
Secretary of the Senate.

C

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 149.

CHIPPEWA RESERVATION.

JOINT RESOLUTION

OF

THE LEGISLATURE OF MINNESOTA,

TO

Secure the cession of the Chippewa Indian reservation at the mouth of Pigeon River, in the State of Minnesota.

MARCH 25, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

Whereas the Indian reservation near the mouth of Pigeon River, on the northern boundary of this State, reserved to the Chippewa Indians by the treaty with said Indians, contains the best and only safe and natural harbors on Lake Superior, near the northern boundary of our State; and whereas such harbors are absolutely required by the developing commerce and mineral interests of that section of our State; and whereas but few Indians are residing upon or can be induced to reside upon said reservation: Therefore,

Resolved, That our Senators and Representatives in Congress be requested to use all honorable means in their power with the Executive of the United States, and the several departments thereof having the same in charge, to cause said reservation to be surrendered, and the Indians removed therefrom to some more proper and equally suitable reservation elsewhere.

Resolved, That the secretary of state forward a copy of the foregoing joint resolution, and of a memorial on that subject, to each of our Senators and Representatives in Congress.

Approved March 1, 1872.

STATE OF MINNESOTA, *Office of the Secretary of State:*

I certify that the foregoing has been compared with the original on file in this office, and is found to be a true copy of the same.

Witness my hand and the great seal of the State this 18th day of March, A. D. 1872.

[SEAL.]

S. P. JENNISON,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 150.

WAGON-ROAD FROM LAKE SUPERIOR TO NET LAKE RESERVATION.

MEMORIAL

OF

THE LEGISLATURE OF MINNESOTA,

ASKING FOR

An appropriation to improve and complete a wagon-road from Lake Superior to the Net Lake Indian reservation, in the State of Minnesota.

MARCH 25, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

Your memorialists, the legislature of the State of Minnesota, respectfully represent:

That by the sixth article of the treaty between the United States and the Bois Forte band of Chippewas, dated May 5, A.D. 1866, the United States agreed that, if practicable, all annuities due the Indians under said treaty should be paid on the reservation at Net Lake. That, owing to the fact that the wagon-road, begun and built a distance of eighty miles from Lake Superior, has never been completed to the reservation, the annuities have been paid to said Indians on ceded lands nearer the settlements. That the payment of annuities to Indians on ceded lands distant from their reservation and homes, is prejudicial to their welfare, as well as to the interests of the State at large. Wherefore your memorialists pray that an appropriation of $10,000 may be made for the completion of said road, in order that the stipulations of the aforesaid treaty may be complied with, and the interests of the State promoted and protected by the payment of annuities to said Indians upon their own lands.

Approved February 28, 1872.

STATE OF MINNESOTA, *Office of the Secretary of State.*

I certify that the foregoing has been compared with the original on file in this office, and is found to be a true copy of the same.

Witness my hand and the great seal of the State this 18th day of March, A. D. 1872.

[SEAL.]

S. P. JENNISON,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { Mis. DOC. No. 151.

JAPANESE INDEMNITY FUND.

LETTER

FROM

THE SECRETARY OF STATE,

IN RELATION TO

The installments of the Japanese indemnity fund which remain unpaid.

MARCH 21, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

LIST OF PAPERS.

March 13, 1872.—Secretary of State to Hon. N. P. Banks, with inclosures—
No. 28. Mr. De Long to Mr. Fish, March 9, 1870.
No. 39. Mr. De Long to Mr. Fish, April 9, 1870.
Copy of bill for appointment of Secretary of Legation, &c.
March 18.—Secretary of State to Hon. N. P. Banks, with inclosure—
Statement of rents due Japan.
March 20.—Secretary of Navy to Secretary of State.

DEPARTMENT OF STATE,
Washington, March 13, 1872.

SIR: With reference to that portion of your letter of to-day in which you request a statement of the amount of the Japanese and Chinese indemnity funds at this date, and any papers of a recent date relating to the non-payment of the installments of indemnity, I have the honor to inform you that the following statement is submitted for your information as to the present amounts of the respective funds referred to:

JAPANESE INDEMNITY FUND.

Invested in United States registered 10-40 bonds	$742,500 00
Invested in funded loan 1881	18,404 99
Uninvested balance half-yearly interest on bonds	19,449 99
Total	780,354 98

CHINESE INDEMNITY FUND.

Invested in United States registered 10-40 bonds	$406,000 00
Funded loan of 1881	12,311 59
Uninvested balance half-yearly interest on bonds due March 1, 1872	11,347 55
Total	429,659 14

It is the custom of the Department to invest the interest, semi-annually collected, in registered United States stock.

For your further information, I send a copy of the correspondence between the United States minister in Japan and the Japanese ministry for foreign affairs relating to the postponement of the payment of the last half of the indemnity due from Japan to the United States and other treaty powers until the 15th of May, 1872.

The Chinese indemnity is entirely paid up.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
House of Representatives.

P. S.—A copy of the act which was the subject of our conversation is herewith inclosed.

No. 28.] LEGATION OF THE UNITED STATES IN JAPAN,
Yokohama, March 9, 1870.

SIR: I have the honor to transmit herewith inclosure No. 1, copy of a letter addressed by me to the Japanese ministers for foreign affairs, in compliance with your instruction, relative to the postponement of the payment of the balance of the Simonoseki indemnity.

Letters in every respect identical were sent on the same day by the representatives of the three other powers interested, by whom similar instructions had been received from their respective governments.

I have the honor to be, sir, very respectfully, your most obedient servant,

C. E. DE LONG,
Minister Resident in Japan.

Hon. HAMILTON FISH,
Secretary of State, Washington.

LEGATION OF THE UNITED STATES IN JAPAN,
Yokohama, March 7, 1870.

To their excellencies Sawa Jusannu Kiyowara Nobe Yoshi, Terasima Jüshie Fujeorara Manenori, ministers for foreign affairs:

I have the honor to inform your excellencies that my predecessor transmitted to my Government the note, dated the 2d of June last, which the ministers for foreign affairs addressed to him and his colleagues, the representatives of Great Britain, France, and the Netherlands, requesting that payment of the remaining moiety of the Simonoseki indemnity should be deferred until the 15th of May, 1872, and engaging that, if the powers interested would consent to this delay, and also to relinquish their claim to interest on the said money for the two years, which terminated on the 15th of May last, and also for the three years terminating on the 15th of May, 1872, then the Japanese government would be willing to defer, until the revision of the treaties in 1872, the collection of duties on silk and tea, according to the increased rates named in the agreement executed between the Japanese government and the foreign representatives on the 1st of June, 1869.

I have been instructed to inform the Japanese government that the Government of the United States has considered this proposal in concert with the governments of Great Britain, France, and the Netherlands, and has determined to agree to it; and I am accordingly instructed to inform your excellencies that the Government of the United States has much pleasure in being able to meet the wishes and convenience of the Japanese government in this request.

It consequently devolves on me and my colleagues, the representatives of Great Britain, France, and the Netherlands, to exchange notes with your excellencies, declaring, on the part of our respective governments, that the aforesaid agreement relative to the duties on silk and tea which was concluded between the Japanese government and the representatives of the United States, Great Britain, France, Italy, and the North German Confederation on the 1st day of June last, is canceled, and that the present duties on those articles, being those named in the tariff, attached to the convention of June 25, 1866, shall be collected as long as the said tariff, which, in common with the original treaties, is subject to revision in 1872, shall continue in force.

It is incumbent, however, on the part of the foreign representatives to ask that, in view of the repeated delays which have occurred in the payment of the said indemnity, it becomes necessary that the notes now to be exchanged between your excellencies and the foreign representatives should declare that the present postponement is final, and that the Japanese government will accordingly not fail to pay to the four powers interested in the Simonoseki indemnity, on the 15th of May, 1872, the whole of the moiety remaining due, namely, $1,500,000.

I have to request your excellencies to signify in your reply your consent to the conditions of this note; and I avail myself of this opportunity to renew to you the assurance of my distinguished consideration.

C. E. DE LONG,
Minister Resident of the United States in Japan.

No. 39.] LEGATION OF THE UNITED STATES IN JAPAN,
Yokohama, April 9, 1870.

SIR: With reference to my dispatch No. 28, of the 9th ultimo, and its inclosure—copy of a joint letter of the representatives of the powers interested—I now have the honor to transmit inclosure No. 1, copy translation of the reply of the ministers for foreign affairs, renewing the obligation of the Japanese government to pay the whole of the moiety remaining due—namely, 1,500,000 Mexican dollars—of the Simonoseki indemnity on or before the 15th of May, 1872, and, in return for this extension of payment granted, and for the waiver of interest on that amount up to the date named, assenting to defer the collection of the increased rate of duty on tea and silk, and to maintain the duty on those two staple articles of export as fixed by the convention of Yedo of the 25th of June, 1866.

I have the honor to be, sir, very respectfully, your most obedient servant,

C. E. DE LONG,
Minister Resident.

Hon. HAMILTON FISH,
Secretary of State, Washington.

TOKEI, (YEDO,)
The 8th of the 3d month of the 3d year of Meiji, (8th April, 1870.)

SIR: We have the honor to acknowledge the receipt of your excellency's letter, dated the 7th of the 2d month of this year, informing us, in reply to our written request, that the Government of the United States, acting in concert with the governments of France, Great Britain, and the Netherlands, has consented to the postponement of the payment of the remaining moiety of the Simonoseki indemnity until the year Saru, (the 15th of May, 1872.) And we now beg to state that the Japanese government will not fail to pay the whole of the moiety remaining due on or before the 15th of May, 1872; and that, in view of the repeated delays which have occurred in the payment of the said

indemnity and of the relinquishment of interest on that money for the past two years, and also for the three years terminating on the 15th of May, 1872, the collection of duty on silk and tea, according to the increased rates provided in the agreement executed between the Japanese government and the foreign representatives on the 21st day of the 4th month of the 2d year of Meiji last, (1st of June, 1869,) shall be deferred until the revision of the treaties in 1872, and hence that the tariff appended to the convention of the 13th day of the 5th month of the 2d year of Kewo (the 25th of June, 1866) shall continue in force.

With respect and consideration.

SAWA JUSANNU KIYOWARA NOBE YOSHI,
JUASIMA JÜSHIE FUJIORARANO MUNENORI,
Ministers for Foreign Affairs.

His Excellency C. E. DE LONG,
Minister Resident of the United States.

AN ACT to provide for the appointment of a secretary of legation at the court of Japan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to appoint for the legation at Japan a secretary of legation, who shall receive as compensation for his services a salary at the rate of thirty-five hundred dollars a year.

SEC. 2. That the President be, and he is hereby, also authorized to appoint three student interpreters to be attached to said legation, who shall be, at the time of their respective appointments, not over the age of seventeen years; each of whom shall receive as compensation for his services for the first year at the rate of six hundred dollars, for the second year at the rate of nine hundred dollars, and for the third year fifteen hundred dollars, and for the fourth year at the rate of two thousand dollars.

SEC. 3. That the interpreter for said legation shall be selected from the student interpreters aforesaid, so soon as one or more of said students shall have attained sufficient proficiency in his or their studies, and in the language of Japan, to be able to discharge properly the duties of that office; and the said interpreter shall receive as compensation for his services a salary at the rate of three thousand dollars a year.

SEC. 4. That the sum of ——— dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, to pay outstanding claims preferred by the government of Japan against the Government of the United States for the use and occupation of buildings and grounds appurtenant thereto, by officers and agents of the United States, in the cities of Yedo, Yokohama, and Hakodada, for ministerial, consular, hospital, and other purposes, such payments to be made under the direction of the Secretary of State.

SEC. 5. That a sum not exceeding five thousand dollars per annum be, and the same is hereby, authorized and directed to be paid out of the income arising from the Simonosiky indemnity fund, to be used to defray the expenses of renting, furnishing, and keeping a suitable building, with grounds appurtenant, in Yedo, or such other place in Japan as shall be approved by the Secretary of State, for the use of the diplomatic representative, as a legation building, court-house, and jail, such expenses to be subject to the allowance and approval of the Secretary of State.

SEC. 6. That the further sum of twenty-five hundred dollars be, and the same is hereby, also appropriated out of any moneys in the Treasury

not otherwise appropriated, for the purchase of a suitable law library for the use of said legation in Japan, the selection of such library to be made by the Secretary of State.

SEC. 7. That the President be, and he is hereby, authorized to remit to His Majesty the Emperor of Japan so much of the Simonasiky indemnity fund as still remains due and payable to the United States.

DEPARTMENT OF STATE,
Washington, March 18, 1872.

SIR: Recurring to your letter of the 15th instant, relating to the Japanese indemnity fund, I have now the honor to inclose a statement, which has been furnished by Mr. De Long, of the rents due to Japan. Mr. De Long will be happy to call upon you should you desire it, and afford you any explanations which you may require upon the subject.

I have the honor to inclose also a statement of the installments of that Japanese indemnity, known as the Simonoseki indemnity, remaining unpaid.

The information sought from the Navy Department has not yet been received here, but will be promptly communicated to you on its receipt.

I have the honor also to inclose a draught of a bill providing for the payment of the rents due Japan out of the indemnity fund heretofore paid to this Government, and a draught of another bill absolving the Japanese government from further payment toward the extinction of the debt still due from that government to the United States.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
Chairman of the Committee on Foreign Relations,
House of Representatives.

Rents for the use of the United States legation building Zurphuji, Tokei.

Legation building, from September, 1859, to June, 1872.....	$1,354 32
Legation lot, from September, 1869, to June, 1872.....	964 50
Lot No. 178, bluff, from August, 1868, to June, 1872.....	670 82
Lot No. 27, on bluff, May, 1859, to May, 1872.....	657 00
Consular lot, Hakodadi.....	600 00
Vice-consular lot, Hakodadi.....	50 00
Improvements on consular lot.....	1,600 00
	5,896 64

Statement of installments of the indemnity due from the government of Japan under the convention of October 22, 1864, *between that government and those of the United States, Great Britain, France, and Holland.*

The whole amount to be paid under the convention to the four powers was $3,000,000, and it was stipulated that it should be paid in installments of one-sixth of the whole amount above named. Three installments have been paid, amounting to $1,500,000.

Three installments remain unpaid, the principal of which amounts to $1,500,000, the share of the United States therein being $375,000,

[For further information as to the condition of the fund in the hands of this Government, see House Ex. Docs. Nos. 69 and 77, Forty-first Congress, second session, and the other documents therein specified.]

A BILL providing for the payment to the government of Japan, from the indemnity fund, the sum of five thousand eight hundred and ninety-six dollars and sixty-four cents, due on account of rents for lands and buildings occupied by the diplomatic and consular representatives of the United States to Japan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized to pay to the government of Japan, through its resident diplomatic representative in the United States, out of the moneys received from said government under the convention of October twenty-two, one thousand eight hundred and sixty-four, any sum which may be found to be due to the government of Japan by that of the United States, on account of rents for lands or buildings occupied by the diplomatic or consular representatives of the United States in Japan.

A BILL to release the government of Japan from the payment of the balance of the indemnity fund remaining unpaid, amounting to three hundred and seventy-five thousand dollars, under the convention of October twenty-two, one thousand eight hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized [and directed] to absolve and release the government of the Empire of Japan from the payment of the balance, amounting to three hundred and seventy-five thousand dollars, of the indemnity due to the United States under the convention between the United States, Great Britain, France, and Holland of the one part, and Japan of the other, signed at Yokohama on the twenty-second of October, one thousand eight hundred and sixty-four, and from the payment of any interest which may be due on said balance.

And be it further enacted, That it shall be the duty of the Secretary of State to communicate officially to the government of Japan information of the action of the President, under and by virtue of the authority hereby given.

DEPARTMENT OF STATE,
Washington, March 21, 1872.

SIR: I have the honor to acknowledge the receipt of your note of yesterday relative to the dates of the payment of the installments of the Japanese indemnity. In reply I have the honor to inform you that the whole sum of indemnity was made payable quarterly, by the convention of October 22, 1864, in installments of one-sixth, or half a million of dollars, to begin from the date when the representatives of said powers should make known to the Tycoon's government the ratification of the convention and the instructions of their respective governments.

The first installment became due and was paid August 22, 1865. The second installment became due on the 17th of November, 1865, and was paid on the 8th of January, 1866. The third installment became due on the 15th of February, 1866, and was paid. The fourth installmen became due on the 15th of May, 1866; the fifth on the 15th of August

and the sixth on the 15th of November of the same year. The fourth, fifth, and sixth installments remain unpaid.

In consideration of the remission of certain duties by Japan, it was agreed, by an interchange of diplomatic notes between the representatives of the treaty powers in Japan and the Japanese ministry for foreign affairs, that the payment of the last three installments of indemnity should be postponed until May 15 of this year. Copies of the correspondence accompanied my letter to you of the 13th instant.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS, *House of Representatives.*

NAVY DEPARTMENT,
Washington, March 20, 1872.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, in relation to the expenses incurred, and loss of life, and the damage sustained, on account of the operations against the Japanese, from which resulted the convention of October 22, 1864.

In the engagement which occurred between the United States steamer Wyoming, commander D. McDougal, July 16, 1863, off the town of Simonoseki, and the Japanese vessels and batteries, the Wyoming was hulled eleven times, with considerable damage to the smoke-stack and rigging aloft. The casualties were four killed and seven wounded, of which latter, one subsequently died from the wounds received.

We have no special account of the cost of repairing the Wyoming and making good the damages sustained in this encounter, but it is thought $5,000 is a fair estimate of it.

The expenditures from the battery of the vessel, she having maintained the action an hour, are estimated at $5,169, thus making the total expenses incurred beyond what would have been had no such operations been entered into, $10,169.

The United States had no regular man-of-war in the combined expedition against the Japanese in September, 1864. A steamer named Ta-Kiang was chartered by the United States minister for co-operation with the expedition, at the rate of $9,500 per month, the United States to pay for the coal consumed. She was taken charge of by Ensign Frederick Pearson, of the United States Navy, August 28, and returned to her agents September 22, 1864. The Ta-Kiang fired eighteen shells from her Parrott gun. Hostilities were kept up from the 5th to the 8th of September, both days inclusive. The total number of vessels of the allied fleets, including the Ta-Kiang, amounted to eighteen.

The Department has no information as to the casualties on this occasion, or the extent of damage sustained, other than the statement in Ensign Pearson's report, that he received twenty-three wounded on board the Ta-Kiang.

A few days subsequent to the engagement of the Wyoming, the Tancrede, of the French fleet, had an action with the batteries in the Simonoseki Straits, with three casualties.

The ammunition, &c., expended by the Ta-Kiang is estimated at about $260.

Very respectfully, &c.,

GEO. M. ROBESON,
Secretary of the Navy.

Hon. N. P. BANKS, *House of Representatives.*

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 152.

NIGHT ACCUMULATING RESERVOIRS.

[To accompany bill H. R. 2110.]

LETTER

FROM

MR. A. WATSON,

ON

Night accumulating reservoirs.

MARCH 25, 1872.—Referred to the Committee on the District of Columbia and ordered to be printed.

To the board of aldermen and board of common council of the city of Washington:

GENTLEMEN: It will be seen from the following extract from a letter of Quartermaster General M. C. Meigs, that in his opinion the plan of accumulating reservoirs, as proposed by me, is practicable:

"I have received your note upon the subject of equalizing reservoirs for Washington. I made some studies on this subject before my control of the Washington aqueduct ceased. Such reservoirs properly located would, I think, do much to remedy the inconvenience now existing, which is due to deficiency of large mains. The highest ground available should be used, if their construction is determined. They should provide for a water surface at the level of 145 feet above tide; should be fed by a large main, which could itself be fed by a number of 6-inch distributing pipes, which have already been laid down by the city *north* of K street.

"I do not think such a reservoir need be very large, yet it would be costly. The use of such reservoirs may defer the time when additional mains are indispensable, but I incline to think that the city needs now another large main, and that it is too late, and the scarcity of supply already extends to too large districts to be entirely remedied by resort to equalizing reservoirs. The case is one requiring deliberate and careful study, and action should be taken only after such study by competent engineers."

Unquestionably General Meigs is entirely correct when he says "that the city needs now another large main," but the difficulty is that this large main cannot be laid under two years, and at a cost of $500,000; when all this time the people in the northern part of the city, and east

of the Capitol, must remain as at present, out of water except at night, and if a fire should occur in these high localities in day-time, the loss might be very great. And even the present supply, in these localities, during the two years, will be decreased by about 1,500 new water-takers added to 6,475, the present number.

One reservoir on high ground in the northern part of the city, and one on high ground east of the Capitol, of from three to five acres in extent, made of well-packed earth banks, with long slopes, riprap walls, and coarse gravel facings (or even slope walls) as in the Baltimore reservoirs, could doubtless be built for $25,000 each, and possibly for half that sum, and could be completed ready for use in two or three months, in time for the heat, drought, and dust of summer. During this time all the preliminary arrangements could be made to lay the 36-inch main, when, if these reservoirs prove successful, the final commencement of the work may be deferred for two or three years, until the city finances are in a more prosperous condition.

But even after the large main is laid, these reservoirs will be of continual value to settle water, and to furnish these higher localities with a full supply. In Baltimore, with 4 large reservoirs, one of 53 acres, about the size of our single reservoir, and located like our own about four miles from the center of the city, with 200 miles of pipe, including 20 miles of mains from 12 to 30 inches, still the higher districts of that city are insufficiently supplied, as will be seen from the last annual report of their water engineer:

"The necessity of thus checking waste (by meters) will be apparent to all when it is understood that the true cause of our insufficient supply is to be found in the *overdraw on the mains*, and not to any scarcity of water at the lakes or reservoirs. They may all be full, with a good overflow at Lake Roland, and yet, because of the *overdraw* on certain lines of mains, parts of the city will be badly supplied."

From the above it will be seen that the same difficulty exists in Baltimore as here, and doubtless in many other cities, an *overdraw on the mains*, or in other words the taps are so numerous that the water cannot run from the reservoirs, some four miles distant, with sufficient rapidity to keep up a full pressure in all the pipes, and hence the higher regions have an insufficient supply. But if reservoirs were placed in the midst or in the immediate vicinity of these high districts, into which the water would be forced by *night* under a high pressure from the mains, to flow out again during the day when the pressure was withdrawn, doubtless all such high localities would receive an abundant supply. This is believed to be a true principle of hydraulics; it would save large sums expended in mains, furnish additional supplies of better water, and by constant motion in the pipes at night prevent mud from settling and pipes from bursting in this and colder climates, and utilize the whole power of water-works during night as well as day.

Very respectfully,

A. WATSON.

WASHINGTON, D. C., *February* 16, 1871.

AN ACCUMULATING RESERVOIR.

WASHINGTON, D. C., *February* 18, 1871.

The plan of Mr. A. Watson, for forming an accumulating reservoir on high ground, into which all surplus water may be forced at *night*, and at all such other times as the main pipes may furnish a redundance,

from which the water thus accumulated may be distributed in *day*-time all over the most elevated parts of the city, appears to be in all respects feasible; provided the details shall be arranged on scientific principles. It appears to be well calculated to meet the various incidents of drought and fire to which such localities are exposed. Its cost would probably not exceed one-twentieth part of putting down an additional main, as has been proposed, and it would probably answer all ordinary purposes for years to come; and it could be put in operation in three months, while it would require two years to put down an additional main. But supposing such an additional main should become necessary ten years hence, the reservoir would still be needed, as now, for *equalizing* the distribution of water. It would also form a source from which still higher elevations, such as Meridian Hill, might be supplied with water, at little cost, by means of a steam-pump of moderate power. In view of the financial condition of the city, Mr. Watson's suggestion appears to have come in good time.

BENJ. SEVERSON,
Mechanical and Civil Engineer.
HENRY LARMAN,
Inspector and Tapper of Water Mains.

WASHINGTON, D. C., *March* 2, 1872.

The singular accuracy of the prediction that to lay a 36-inch main would take two years has been fully verified. More than one year has passed, and from the present progress of the work it can scarcely be completed before the first of next year. This main will furnish double *the present* amount of water, which may cause a sufficient pressure to supply many of the higher portions of the city with an abundance, yet for reasons given by the Baltimore water-engineer, at certain times in the day this may even be slack or insufficient for ordinary purposes. On the contrary, by my plan of a reservoir on the immediate border of *the* city to accumulate water during the night, the quantity will be increased to *double* the present amount, while the pressure will also be *largely increased*, raising water to the greatest possible height, and perhaps rendering unnecessary the use of *fire-engines*. The fact is that the present distributing reservoir is too distant to furnish the full capacity of the works during all hours of the day, the flow being *dead* at night, but by a reservoir within, or on the border of the city, into which the *water* could be accumulated during the night, the works will thus be utilized to their full capacity, the surplus not wanted for ordinary purposes *to be* used for light machinery and increased sanitary uses.

A. WATSON.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 153.

FAILURES OF NATIONAL BANKS.

Mr. SAMUEL HOOPER reported the following

TESTIMONY

TAKEN BY THE

COMMITTEE ON BANKING AND CURRENCY

RELATIVE TO

NATIONAL BANKS.

MARCH 26, 1872.—Laid on the table and ordered to be printed.

WASHINGTON, D. C., *February* 12, 1872.

JOHN BULL sworn and examined.

By Mr. RANDALL:

Question. What is your name?—Answer. John Bull. I reside in this city; am secretary to a railroad company, and engaged in the prosecution of claims.

Q. Were you ever a bank-examiner?—A. Yes; I was appointed by the Hon. Freeman Clarke, Comptroller of the Currency.

Q. Did you, in the special discharge of that duty, investigate the affairs of the Tennessee National Bank, of Memphis?—A. I did, on the 24th day of August, 1866.

Q. How long were you investigating that bank?—A. On the 24th, 25th, and part of the 26th and 27th of August.

Q. Upon the completion of that report, did you furnish the same to the Comptroller of the Currency?—A. I mailed my report to the Comptroller of the Currency on the 28th day of August, 1866, to the Acting Comptroller.

Q. Who was acting Comptroller?—A. Mr. Hiland R. Hulburd.

Q. From whom did you receive directions to examine that bank?—A. From Mr. Hulburd.

Q. As Acting Comptroller?—A. As deputy and Acting Comptroller.

[Mr. Bull exhibited the order to examine the Tennessee National Bank of Memphis, dated August 18, 1866.]

Q. Before you received the direction to go to Memphis, and before you went, Mr. Clarke, as I understand it, had resigned?—A. Yes.

Q. How long prior to that?—A. My recollection is that he had resigned about the May preceding.

Q. Did you keep a copy of your report?—A. I have already said that I made a report; I kept no copy of the report that I sent to the Comptroller.

Q. Here is a paper that has been submitted to the committee as your report, or a copy of it; please say whether it is a correct copy of your report.—A. It is neither my report, nor a copy of my report.

Q. Where should the original report be, Mr. Bull?—A. With the Comptroller of the Currency, I suppose. I am not aware where he keeps them. I can explain about that paper if the committee desire me.

Mr. RANDALL. Yes, if you please.

WITNESS. I made that paper on Wednesday a week ago, at the request of Mr. Hulburd. I told him I had no copy, but I would make something like what this part of it (general remarks) was. I could not, at this length of time, make a correct state-

ment of the facts on the condition of the bank. You will observe I did not sign that paper, (the copy of the report,) nor did I intend it should be in the main. The figures are substantially correct.

By Mr. RANDALL:

Q. Will you explain to the committee in reference to the recommendations, &c., in this report?—A. I remember and can testify to several facts that I have stated there. It is put down here, (taking up the report,) under the head of "United States bonds and securities on hand," "$72,500." I make a note, under "general remarks," "that it was short $10,000; that the president was absent at the north." I recollect that fact, in examining the bank, that it was short. I made inquiries of the cashier concerning the deficiency of $10,000, and he was unable to inform me what it consisted of, but that it was in the hands of the president, who, at the time of my examination, was at the north, said to be at Saratoga. The next item that I came upon was, "Due from other national banks," entered in the body of the report, "$653,397 12." In my note on that, I give the list of banks where the bank had money on deposit. There is one bank in particular, the National Bank of the Metropolis, Washington, which owed it $618,250. It is proper to state here that the National Bank of the Metropolis had two accounts with the Memphis Bank—one was for what appeared to be current business, on which the books of the bank showed that it was indebted to the Bank of the Metropolis in the sum of $391,022 44; then a new account was opened, and they were charged with $618,250. As a matter of course, that peculiar circumstance drew my attention to that account, and I ascertained, first, that that sum of $618,250 was money belonging to the State of Tennessee. I ascertained that it was deposited on the 21st day of June, 1866, and that it had very soon thereafter been transferred to the National Bank of the Metropolis, in Washington. I also ascertained, in connection with that item, that Mr. Rutter had paid $10,000 to procure the deposit.

Mr. RANDALL. I should like to obtain the permission of the committee to ask Mr. Bull if he knows to whom Mr. Rutter paid that $10,000.

After some discusion the committee so agreed, and the question was put by Mr. Randall as follows:

Q. Do you know to whom that $10,000 was paid?—A. I do not.

Q. The books do not show?—A. No. It was explained to me by the cashier as money paid to secure the deposits. He did not say to whom it was paid.

By Mr. MONROE:

Q. That is, the deposit by the State of Tennessee?—A. Yes, sir. I did not know at the time that it was the school-fund; I knew it was funds belonging to the State of Tennessee.

By Mr. HOOPER:

Q. Was it stated on the books that it was paid for that purpose?—A. No, sir.

By Mr. SMITH:

Q. Who was cashier at the time?—A. Walter S. Morgan, a young man.

By Mr. DOX:

Q. When was it made?—A. According to my memorandum, on the 26th of June, 1866.

By Mr. RANDALL:

Q. Would not the books of the Bank of the Metropolis show when they became possessed of it?—A. I should think so.

Q. Do you know what security they gave?—A. I found no security whatever in the bank for the debt they owed to the Bank of the Metropolis.

Q. How was that debt incurred?—A. In order to know that fact more clearly, I took the account of the Bank of the Metropolis from their books.

By Mr. MONROE:

Q. This money was deposited by the Bank of Tennessee here?—A. Yes, sir. It was the entire amount.

Q. Are the motives for that brought out on the books?—A. No, sir. As I said before, the National Bank of the Metropolis had two accounts with the Memphis bank—one that had been running for some time, and then the new account. There were evidently very intimate relations between Mr. Hutchison and Mr. Rutter. The bank here was in trouble at the time. On my report, Mr. Clarke, who was then Comptroller, ordered them to suspend discounting, and to make daily reports to him.

By Mr. HOOPER:

Q. What time was that?—A. On the 24th, 25th, and 26th days of May, 1866, I made the examination of the Bank of the Metropolis, and upon that report Mr. Clarke sus-

pended the discounting, and directed them to make daily reports. The reason was this: the bank owed to the United States at the time $116,763 31. The Treasurer of the United States held as security for that amount bonds amounting to $345,340. The Comptroller, in order to secure the Government, ordered the bank to suspend discounting and diminish that debt.

By Mr. MERRIAM:

Q. Did you in your report recommend the closing of the bank?—A. I have been endeavoring to recall to my recollection whether I made such a recommendation as that. I think I stated in my report that the solvency of the Tennessee bank would depend upon the solvency of the Bank of the Metropolis; and that I recommended him to put the bank under suspension, and have another examination made, say within thirty days; and then, if the condition of the bank was not improved, to put it into the hands of a receiver.

Q. Mr. Clarke, on your report, suspended the Bank of the Metropolis?—A. That was a private suspension; the public did not know anything about it.

By Mr. RANDALL:

Q. I find in this copy this item: "Dividend 15 per cent.;" was that paid to the entire stockholders, or was it paid in cash?—A. The evidence was, that up to the time of examination it had been paid to certain stockholders.

Q. Was there any credit made of dividends upon those notes?—A. Yes, sir. In the case of Whittemore, he had paid $200, and received $150 dividend. He received 15 per cent. on $1,000.

By Mr. DOX:

Q. He was the one who admitted his responsibility?—A. Yes, sir.

Q. Did Collins receive?—A. No, sir; I do not think he did. I have a memorandum here—$900 paid to ———, as dividend, and "that he paid nothing on account of stock, or gave a note therefor."

By Mr. RANDALL:

Q. Did you have any subsequent conversations, on your return to Washington, with Mr. Hulburd as to the condition of this bank?—A. I did.

Q. Will you give us the nature of those conversations?—A. I returned about the 8th of September, and made, as I now recollect, a supplementary report on the 10th. On or about the 10th of September I visited the Department, and had an interview with Mr. Hulburd. I told him that the condition of the bank was very bad. I do not remember what, if any, recommendations I made at the time. Mr. Hulburd informed me that Mr. Rutter had been to see him in the interval, and had made representations about the condition of his bank; that he charged the delinquencies of the bank to his cashier. He was absent at the time of my examination, and had presented himself at the Department here, and was endeavoring to mitigate with Mr. Hulburd the effect of my report.

Q. Your recollection does not warrant you in stating what your recommendation was as to what should be done against the Bank of Tennessee?—A. No, sir; I cannot recall what I said. I recall one item of that conversation, and only one. Mr. Hulburd informed me that Mr. Rutter had been here, and said to him that he had $500 with him that was at his, Mr. Hulburd's, disposal. Mr. Hulburd asked me what I thought of such a proposition as that on the part of Mr. Rutter. I said to him, in reply, that if my report was not enough to damn the bank, that proposition was.

Q. Do you know whether that money was paid to Mr. Hulburd?—A. I do not.

By Mr. RANDALL:

Q. When was this conversation?—A. About the 10th or 12th of September.

Q. What action, after your conversation, did Mr. Hulburd take in reference to this bank?—A. I do not know. I do not know anything further.

Q. When did you cease to be an examiner?—A. On the 9th of March, 1867.

Q. You were never called upon again to examine into this bank, or the Bank of the Metropolis?—A. No, sir. I went from here to New York.

Q. What was your district?—A. I was first appointed for the States of Virginia and Maryland; then for the District of Columbia; then for the city of New York; then to Mississippi; I was subsequently sent to New England. I held various appointments, and for various districts. I went from Memphis to Vicksburgh, to examine a bank there that was supposed to be under a cloud. On my return I went to Richmond, where I examined a bank on the 14th of September, and on subsequent days several other banks. On the 8th of October I arrived in New York, and began examining in that city.

Q. Did you resign, or were you relieved?—A. I was relieved.

By Mr. MERRIAM:

Q. When was a receiver appointed for the Memphis bank?—A. I forget.

By Mr. RANDALL:

Q. Where was the money when it was lost to the State of Tennessee; in the Bank of the Metropolis, or in the Tennessee bank?—A. I do not know, sir.

By Mr. MONROE:

Q. Did Mr. Hulburd seem to be in any doubt as to what would be proper for an officer to do under those circumstances?—A. He expressed no opinion at all.

Q. Did he seem to mention the fact as an evidence of Mr. Rutter's demoralization?—A. Yes, sir.

Q. Not as if he wished to get your advice to whether he should accept it?—A. No, sir. He is a reticent man. He seemed to tell it for the purpose of showing the outrageous proposition that Mr. Rutter had made. It is due to Mr. Hulburd that I should say so.

By Mr. RANDALL:

Q. How soon after this conversation was Mr. Hill sent down to Tennessee as cashier?—A. I do not know, sir.

Q. How shall we learn that fact?

Mr. HOOPER. Here is a letter in which Mr. Rutter says that Mr. Hill entered upon his duties on the 23d of November.

By Mr. MONROE:

Q. Mr. Bull, I would like to ask a question. Have you any knowledge as to the appointment of Mr. Hill as cashier?—A. I have no knowledge only from common report.

By Mr. HOOPER:

Q. Having examined this bank and found it in such a condition, I suppose you felt some interest in its subsequent conduct. When the quarterly reports of the books were made, on the 1st of October, 1866, did you have the curiosity to examine the report made by this bank?—A. I do not recollect to have done so; it was not accessible to me. I was in New York, very busily engaged. I do not remember ever having examined it.

Q. Now, here is the report they made. Please look at it.—A. [After examination.] That shows the bank to be in a wonderfully changed condition.

Q. What is your opinion as to the correctness of that report?—A. I have no opinion on that subject, sir.

Q. Being a sworn report, do you doubt the correctness of it?—A. The answer to that question involves my opinion as to the veracity and integrity of the officers. If made and sworn to by Mr. Rutter, I should have no confidence in it. If by Mr. Morgan, I should believe it. I have confidence in him.

Q. Where can we find the supplementary report that was made to the Comptroller?—A. My recollection is that it was made on the 10th of September. I wrote a letter to the Comptroller.

Q. Have you got that letter?—A. No. I have no memoranda whatever about it. I do not swear positively that I wrote it to him, but my recollection is that I wrote such a letter. My recollection is that I transmitted a letter to the Comptroller on the condition of the Memphis bank.

By Mr. MERRIAM:

Q. Then this report that is sent here now, you would give no credence to it—the one handed you by Mr. Hooper?—A. I do not think it is probable that in so short a time they could succeed in borrowing so large a sum of money.

By Mr. MONROE:

Q. How long after was this?—A. This was in October, and it was in August that I made my report.

By Mr. MERRIAM:

Q. When did you go to Tennessee?—A. I started about the 20th day of August, and got into the bank on the morning of the 24th.

Q. Do you know whether the Comptroller, Mr. Hulburd, had anything to do with the sending of the cashier?—A. I do not.

By Mr. MONROE:

Q. What were the circumstances under which you were relieved from your relations to the Department? Did it have anything to do with this inquiry?—A. Not that I am aware of.

Q. Were any reasons assigned?—A. No, sir; I found afterward that reasons were

said to be in existence. My information subsequently was that an enterprising gentleman wanted my place.

By Mr. RANDALL:

Q. Who was appointed as your successor?—A. Mr. Callender. I afterward found that there were some charges made against me—I knew nothing about it at the time—by some parties in New York.

Q. You were simply notified that you were relieved?—A. Yes, sir.

Q. Did the charges come from the banks?—A. No, sir, I think not.

Q. Individuals connected with banks?—A. My information is that they came from Mr. Callender. I was charged with having received a gold watch from a bank. I did not know it until afterward. I immediately sent to the bank, and got a reply from them that they had given me no gold watch. The only foundation for the charge was: a bank in New York had a gold watch which I had some idea of buying; they offered it to me for $175, but I did not take it. The cashier has made affidavit that they sold the watch afterward. I have a memorandum here that might be of some interest. While holding the position of bank officer, I received as compensation from all sources $2,259. I found I was getting so short, that I did not care to be a bank-examiner.

By Mr. MERRIAM:

Q. Were traveling expenses paid at that time?—A. No, sir. Some little allowances were made to me.

Q. You stated here that Mr. Hulburd consulted you in regard to Mr. Rutter's offer to him of $500; have you any knowledge that he received any present from Mr. Rutter?—A. O, no; I have not. I would not like to be misunderstood on that point.

Q. What was said about it?—A. My opinion was that the bank should be put under suspension and called upon to make good their deficiency within a short time, to fulfill the requirements of the law. I made this report [the copy sent by the Comptroller to the committee] to oblige Mr. Hulburd, but I cannot say, with absolute certainty, that it is correct. I made it from my memoranda here. Here [producing paper] is a statement which was made for me at the time by the cashier of the bank. It was my custom, in making examinations, to ask the cashier to give me a statement of the condition of the bank, and then to go over the books for myself, and see whether or not it was accurate in all particulars. My memoranda induces me to think that the bills receivable were short, and that the cash was a little short; that the lawful reserve was deficient. The next item that I make a note of was concerning the capital stock paid in. The capital stock of this bank was $100,000. I made careful examination to see whether it had been paid in, and I have memoranda very precise on that point. I took off a list of their stock-book, which I have here. The result of that examination was to show that $40,700 had been paid in money, $55,300 in notes, and for the balance nothing whatever.

By Mr. MERRIAM:

Q. Was there any collateral held against those notes?—A. I made a list which shows.

Q. Did you consider them as sound assets?—A. No, sir. I sent for some of the principal people who had given these notes, among the rest for Mr. V. H. Whitmore and Mr. ———, both of whom had given notes for $10,000 each. Collins's note was indorsed by Wood, and Wood's note by Collins; and I understood that neither of them expected to pay; that the president wanted to make up the stock, and had told them they need not give themselves any trouble about it.

Q. This result was embodied in your note to the Comptroller of the Currency?—A. Yes, sir.

By Mr. RANDALL:

Q. If I understand you, you had previously to that reported upon the condition of the Bank of the Metropolis?—A.

Q. Have you any knowledge of Mr. Hulburd's ever having received any money?—A. No, sir.

WASHINGTON, D. C., *February* 17, 1872.

GEORGE R. RUTTER duly sworn and examined.

By the CHAIRMAN, (Mr. HOOPER:)

Question. State your name, residence, and occupation.—Answer. G. R. Rutter; my residence in New York; I am a salesman, a merchandise broker, selling goods on commission in New York for southern acquaintances.

Q. Where is your place of business?—A. No. 144 Pearl street.

Q. Are you connected with any one in business there?—A. No, sir.

Q. How long have you been in that business?—A. About eighteen months.

Q. Where did you reside before you went to New York?—A. In Memphis, Tennessee.

Q. What was your occupation in Memphis?—A. When I first went to Memphis, in 1859, I went into the house of J. D. Williams temporarily as a clerk.

Q. What is the business of that house?—A. Wholesale and retail dealers in dry-goods. Subsequently I went into the wholesale grocery business on my own account. During the war I made a great deal of money dealing in cotton. I established a brokers office in Memphis under the name and style of S. B. McClure & Co. I furnished the money, and simply took in McClure because he was a good business man and understood book-keeping. I met Mr. Hutchinson, cashier of the National Bank of the Metropolis at Washington, in 1865, and Mr. Hutchinson and I determined that we would start a national bank. He told me that if I would get up a lot of stockholders in Memphis he would aid in the organization of the bank, and furnish any amount of money that was necessary; he having about a million and a half of Government deposits at that time in the Bank of the Metropolis. We went on and organized this bank, I think in June, 1865. I am not certain as to the month, for I have tried to forget these things for certain reasons. We organized that bank, and the institution ran about two years, I think.

Q. What was the name of that bank?—A. Tennessee National Bank of Memphis.

By Mr. Cox:

Q. Were you connected with it two years?—A. I think so; I think it wound up in he latter part of 1867. I would like to remark here that that bank commenced under very favorable auspices, and up to the time that we became the fiscal agent of the western district of Tennessee, the bank was making money and doing very well. We became the fiscal agent of the western district of Tennessee through political influence. We were promised by the radical party of Tennessee that as long as we stood up for the party they would give us their whole strength; that they would favor the institution; that they would do all they could for it; would deposit their money and leave it there, and we were led to believe they would do so.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Who were the stockholders in this bank?—A. I do not remember them now. I could not tell unless I had a list of them.

Q. How much stock did you own?—A. It required a thousand dollars of stock paid in to become a director in the bank. I subscribed for that amount and paid it in; subsequent to that time I took more. At one time I had standing in my name $5,000. There may have been more; I do not remember.

Q. How much did Mr. Hutchinson take?—A. Ten thousand dollars.

Q. Go on and state any circumstances that you want to bring before the committee in connection with this bank.—A. I saw an article in the Herald that I think improperly reflected both upon me and other persons connected with the bank, and I would like to have the liberty to explain. I think that article was published in the Herald on the 10th instant. It was said to have come from the committee-room.

By Mr. Cox:

Q. Give the substance of the article.—A. The article stated that the Comptroller had made very damaging report in respect to the Tennessee National Bank. It also stated that I had gone off from the bank with some $22,000 in currency of the bank, leaving the impression that I had never returned that money. That currency was returned, every dollar of it, and a certificate to that effect made by the cashier. A copy of that certificate was sent to the Comptroller's office. Mr. Bull made an examination of the bank, and I afterward came on to Washington, and called to see the Comptroller and Mr. McCulloch, who was Secretary at that time.

Q. Who was Mr. Bull?—A. A bank examiner, sent out to Tennessee to examine that bank. Mr. Bull reported that there were some stock-notes given in by the bank, which were held over, amounting to some $45,000. The Comptroller and Mr. McCulloch told me that the capital stock of the bank must be made good. I told them I would go back to Tennessee and make it good. I went to New York, and met there Mr. W. J. Ford, a gentleman of wealth, from Memphis, worth a million and a half in property. He had a piece of property in Memphis, on South Court street. I told him that if he would become a stockholder to the amount of $45,000, or at least to make up this discrepancy in the stock that Bull spoke of, I would be glad to have him do so. Mr. Ford agreed that he would give a deed to the bank of his property, a very fine, double brick building, that would answer the purposes of a bank. I saw from the national-bank law that the bank had a right to hold its own property for banking-purposes. We therefore purchased that property of Mr. Ford, and issued stock for it, and I immediately reported the same to the Comptroller's Office.

By the CHAIRMAN, (Mr. HOOPER:)

Q. How large an amount of stock was issued to him?—A. I think $45,000.

Q. Then you never received any money for that stock?—A. We took the property in exchange, and issued stock to him to that amount. It was a *bona fide* transaction. I reported the transaction in person to the Comptroller and to Mr. McCulloch; and, I think. I also reported in writing. I have no doubt I did.

Q. How was that property held? For instance, I see by the report of the bank, in October, 1866, there is no mention made of this amount of real estate. Did this occur previous to that time?—A. I reckon that property was represented as real estate at the time it was paid in.

Q. You stated that Mr. Bull made that report?—A. Yes, sir.

Q. That report we know was made about the middle of August.—A. This was immediately after that report was made. The Comptroller knows that, and will tell you that, I reckon. It may have been left over till the next quarterly report. At any rate, this stock was issued and this property was put in lieu of what was not before paid in. These were the facts.

Q. When was that done?—A. Immediately after Mr. Bull's report. That is my impression about it. As I said a little while ago, I have been troubled a great deal about that bank, and broken up and ruined by it, and I have tried to forget the whole thing; and I really cannot recollect all the dates and circumstances connected with it.

Q. After Mr. Bull had made his report, did you get anything from the Comptroller's Office in reference to that report?—A. I did.

Q. Do you remember the date?—A. I do not.

By Mr. MERRIAM:

Q. How did you get a copy of his report?—A. I think Mr. W. A. Hill, cashier of the bank, showed it to me. He was subsequently the receiver of the bank.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Do you mean to say that you received no communication from the Comptroller in reference to the report of Mr. Bull?—A. I could not say positively. I could ascertain that fact if it is important that you should know it.

By Mr. COX:

Q. Did you write a letter to Mr. Randall?—A. Yes, sir.

Q. State the substance of that letter to Mr. Randall.—A. I don't remember; I shall have to see it first.

Q. State, as nearly as you can, what was the subject-matter.—A. I wrote to Mr. Randall, as far as I can recollect, that certain Government officials had acted very improperly in connection with this bank. That is the substance of it.

Q. Did you name anybody?—A. No, sir.

Q. In that letter did you say anything about your desire to make a statement to the Committee on Banking and Currency?—A. I do not think I did, but I do not remember.

Q. Have you any such desire now, or have you had?—A. To tell the truth, I would rather be relieved from the whole——

Q. Please answer my question.—A. You asked me if I have a desire. I told you I have not any desire.

Q. Have you not had? It is necessary we should have the facts.—A. If I had any desire, it was to promote the public good, and none other.

Q. I am not asking you about the motive, but about the fact. What was your object in writing to Mr. Randall? How could you promote the public good, unless you have some statement to make?—A. Well, I have a statement to make—several of them.

Q. That is what we want you to make.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Mr. Rutter stated, if I understood him correctly, that that real estate proceeding was in consequence of some communication from the Comptroller requiring him to make up the capital stock of the bank?—A. Yes, sir.

Q. But you have stated that you do not remember any communication?—A. I have told you that the Comptroller and the Secretary made the statement to me personally in Washington.

By Mr. COX:

Q. Did you state to Mr. Randall that you desired to ventilate anything in connection with the Comptroller?—A. I don't remember that I mentioned the Comptroller's name in the letter.

Q. Did you say the Comptroller and other parties had robbed you, and you desired to make a statement to ventilate it?—A. Well, you have the letter. I do not want to confuse myself. I have a right to see the letter, and therefore I do not want to answer the question.

Q. How long since the letter was written?—A. Some weeks.
Q. Is that your handwriting? [Letter examined by witness.]—A. Yes, sir.
The following is a true copy:

"NEW YORK, *December* 20, 1871.

"DEAR SIR: I see from the papers you are upon a committee to examine into national bank affairs. I have had a talk with a leading gentleman here, who advises me to write you at once upon the subject. The *facts* I have are in relation to Mr. Hulburd, the Comptroller of the Currency, and his *special agents*, relating to southern national banks, including Mr. Davis's dirty work, as present receiver of the Ocean National Bank of this city. I have the proof that Hulburd, and his receiver and special agent, *blackmailed* directly money and property from myself, while I was president of the Tennessee National Bank of Memphis, Tennessee, &c., &c. I expect to go South in a very few days, and if you wish my information, it should be had at once. Through his rascality, and others, I was financially ruined, and am very poor now. Consequently, having no interest in public affairs, some remuneration would be expected for my time and trouble, and for this purpose would come to Washington, if you wished me, at once. Please let me hear from you at once, and be kind enough to treat this communication confidentially until further interview.

"Yours, &c.,

"GEO. R. RUTTER,
"*Post-office box* 3832, *care of R. P. Salter & Co.*,
"144 *Pearl st., New York City.*

"HON. SAM'L J. RANDALL."

(The above letter was written with a pencil.)

Q. Will you please state now what you meant by the facts in relation to Mr. Hulburd, which you proposed to disclose in that letter?—A. Well, sir, through the intriguing of politicians in Tennessee that bank got in a very bad shape and very much mixed up. As I said before, we became the fiscal agent of the western district of Tennessee through political influence, and after we got this deposit from the State of Tennessee, various applications were made for loans, from sixteen or seventeen members of the legislature of Tennessee, besides others from some Government officers in that State, giving us to understand that if we did not lend them money they would take this deposit from us. They wrote me some twenty or thirty letters asking for money, and requesting it.

Q. What was the amount of the deposit?—A. Six hundred and eighteen thousand two hundred and fifty dollars.

Q. What was the nature of it?—A. We were the fiscal agent of the western district of Tennessee, and there were some bonds deposited in the bank; some of them were called the school-fund, and others the assets of the bank of Tennessee. I do not see how they could specify the amounts of the different sums. Finally, these men kept making such demands that I determined that we had better close up the bank rather than give it all away, and allow ourselves to be blackmailed in that way. It had been my purpose to continue the bank. I wanted to continue it, and was striving very hard to do it. Finally, I was indicted for stealing something over $600,000, in the court at Nashville. I was indicted through the instrumentality of Mr. F. S. Richards, who had written me seven or eight letters demanding money, and asking for money, and I think there were also some from the principal, I think he is, or has something to do with the Government schools. Rev. John Eaton and others determined to make a scape-goat of me, and, if possible, to break me down in order to escape themselves. I gave bond in Memphis for my appearance in Nashville for the sum of $2,000. I explained the matter to the judge, and he said there was nothing in it, and he did not want to hold me in any very large amount. The legislature was in session and sent to have me brought before a legislative committee at Nashville. I went to Nashville, and arrived there the day I had to appear on this indictment to be tried. I went to the court-room and presented myself, and told them I was ready, and my counsel was present. I was given to understand that the legislature wanted me, and that for the present I would not be tried on that indictment. I went before the committee of the legislature—a senate and house committee. The State had employed as counsel Hon. Edward H. Leach. I produced before the committee all these letters from certain members of the legislature of Tennessee, and from certain State officials. They kept me there some five or six days. These letters were published, and Mr. John Eaton, who now lives in Washington, was tried, as was also Mr. Samuel Arnold, the speaker of the house, for their proceedings in connection with this bank; and other letters to me were produced and read as evidence. After the examination was completed I was informed that they had no further use for me. I went home, and the court finally agreed to acquit me of all those charges, the State paying expenses. I was acquitted and relieved from the disabilities, in connection with the bank, as far as the State deposits were concerned. There was a committee appointed by the legisla-

ture, at my suggestion, to go down and visit the bank at Memphis, composed of three members of the house and two of the senate. They came down and drew two checks upon the bank; one for $350,000, and the other for the balance of the $618,225. I paid the $350,000 in money, and they took our obligations for six, twelve, or eighteen months for the balance. I hoped the bank might recuperate in the mean time. I communicated these facts to the Comptroller.

Q. In what year and month did you write to the Comptroller?—A. It was about the time the bank went into the hands of the receiver our collections were withdrawn. The depositors began to be suspicious, and withdrew their deposits until every hope of recovery was dissipated, and we found we could not do anything. The committee that came down from Nashville examined the books and papers of the bank, and made a report to the legislature of the State that "Mr. Rutter had afforded them every facility to examine the affairs of the bank, and that his conduct and deportment through the whole investigation was exceedingly proper and correct, and that they found no cause of complaint, nor any ground of crimination whatever." This report was published with the proceedings. Finally I came on to Washington to see the Comptroller, and told him the whole state of the affairs, and that I had paid this money.

By Mr. COX:

Q. The committee drew out the $350,000?—A. Yes, sir.

Q. At what time?—A. It was at the time they made the investigation. They had an order to draw out the whole of it; that is, all that the members of the legislature and the executive officers of the State did not get. I came on to Washington, and I had a talk with the Comptroller; told him, "I think we had better go into liquidation and wind up all our affairs." It was finally thought best that the bank should go into the hands of a receiver. Previous to that time Mr. Hill had been introduced to me by Hulburd in Washington, at the Treasury Department, as a fit man to become a cashier in that bank. We saw, immediately after this, trouble with the State authorities. I cannot give the day. It was probably six or eight months before the bank went into the hands of a receiver. It was, I think, in the latter part of 1866.

By the CHAIRMAN, (Mr. HOOPER:)

Q. When did the legislative committee first come down there to draw the money on those checks?—A. They came down in June or July, 1866; I cannot remember exactly.

By Mr. COX:

Q. I think you had better go on and give your interview with the Comptroller.—A. Mr. Hill, as I said before, was introduced to me in Washington, and subsequently came down to Memphis and became cashier of the bank, and subsequently a receiver of the bank. Mr. Hill told me that he wanted his salary, as receiver, to be $5,000 a year; that he had to give the Comptroller part of his salary. That is the statement of W. A. Hill. I don't know whether he did or not, but he told me he did. I have subsequently, however, understood that he got no such salary for his services. I think he only got about $1,600. I am inclined to think from recent information that Mr. Hill did not give any money to Mr. Hulburd.

Q. Have you received that information since you came to Washington?—A. Yes, sir.

By Mr. MERRIAM:

Q. From whom did you receive this information since you have been here?—A. I understood so from Mr. Hulburd. My conversation with him relieved the impression that he had received any money from Hill; that was since I have been here this time.

By Mr. COX:

Q. Is that the only basis of your statement when you speak of the facts you have in relation to Mr. Hulburd and the special agents?—A. No, sir; I am not through yet.

Q. State the rest.—A. Mr. Hill wrote me in all about twenty-five letters. After he came I was in very poor health, completely shattered in body and mind. I went off to the springs in Alabama, to get away from Memphis, and tried to build myself up. Mr. Hill arrogated to himself, as being receiver of the bank, a great deal of power and authority, and intimated that I had used the funds of the bank for myself, which I never did, for I came out of the bank a pauper, without any money at all. I found myself perplexed right and left, and did not know what to do; and I suffered myself to be blackmailed out of sums of money by Hill. He wrote me several letters for money, and said he wanted to set up his son in business. I told him, "You imagine that I am worth a good deal of money; but you are mistaken. These politicians and lawyers, and you among the rest, have taken all the money I have." But Mr. Hill kept up his insinuations about what he was going to do, intimating that he had great power and authority, and that the Comptroller would back him up in his operations in blackmailing me out of the money.

Q. How much did you pay him?—A. He wrote me about twenty-five letters. They

are now in the hands of the committee of the legislature of Tennessee, and can be had at any time, and showing how he demanded money of me.

Q. What was the consideration?—A. There was no consideration, except that he knew that I was president of the bank and was under arrest; and he arrogated to himself the authority to give me all the tronble he could.

Q. Did you pay him money?—A. Yes, sir.

Q. How much?—A. I suppose he has got $11,000 from time to time—that is, after he became receiver. I met him here at one time when he had not a decent suit of clothes, and I took him to Devlin's and gave him a suit of clothes. I believed at the time that the Comptroller had forced Hill upon me. I did not understand it at all.

Q. Out of what fund did you pay this $11,000?—A. Out of my own funds.

Q. Money you had made in the bank?—A. No, sir; I made some $85,000 about the time the bank was organized in cotton. My income was $75,000 a year before I saw the Tennessee National Bank. I had money of my own.

Q. Is that all you meant when you spoke of the special agents and the Comptroller?—A. No, sir.

Q. Go on.—A. When in Washington, Mr. J. W. or J. T. Howenstein, chief clerk of the Treasury Department, was sent to Memphis for the Currency Department, as a special agent to examine this bank. This was prior to the appointment of the receiver. There were about two weeks between the time of his examination and that of the receiver. Mr. Howenstein came to Memphis, and, like Mr. Hill, he commenced his operations of demanding money, and money was paid to him by me, in all about $2,700. He said a part of it was for Government officers in Washington.

By Mr. MERRIAM:

Q. What reason did he give for demanding the money?—A. He gave no reason; except as he had examined the bank, and gave me to understand that he was vested with that sort of power and authority that, unless money was paid him, he would give me trouble. That was the reason I paid. Not only that, but I have five letters of his, written by himself, still further demanding money.

Q. Where are they?—A. They are in the hands of the legislature of Tennessee, on file. They were produced on my examination at that time.

By Mr. COX:

Q. Are they in the custody of the secretary of state?—A. I think the secretary of state has charge of them.

Q. Were they letters making demands upon you?—A. Yes, sir. He wanted money to set up his son in business in St. Louis.

Q. Then you gave it as a sort of hush-money?—A. No, sir. There was no transaction between Mr. Howenstein and myself that I am not willing shall be known, except that I have made a fool of myself in squandering money and allowing money to be taken from me.

Q. You did not consider it a loan, but an absolute payment?—A. I did not consider it a loan. I took no note or anything from him. I did not make any memorandum of it.

Q. Did you draw checks, or give the money?—A. I gave the money, from time to time.

Q. Do you remember what sums?—A. I do not remember. The first amount I gave was $500. If you wish to establish the fact you can find these letters.

Q. Did you make a full statement to the committee?—A. Yes, sir. It was reduced to writing and published in pamphlet form.

Q. Do you know where Mr. Howenstein is now?—A. He is cashier in a bank in St. Louis, recently organized.

Q. Is it a national bank?—A. I think so.

Q. How long since he was appointed to that position?—A. I do not know. I only understood he was cashier of a bank since I came here to Washington.

Q. Do you make any connection between Mr. Howenstein and the Comptroller?—A. No, sir. I have only Mr. Hill's word for it. I have no right to state that Mr. Hulburd had anything to do with Hill, because I do not know it.

Q. You say you have paid money to Hill?—A. Yes, sir.

Q. Was that one of the reasons he gave you for demanding it, that he was to divide with Mr. Hulburd?—A. He told me he wanted to divide his salary as receiver.

Q. What other reason did he give you, when getting money from you?—A. He would write me letters, and would insinuate things in them, as to what he would do. They are in Nashville, and in them he would ask for money; but would always express himself in such a way that I could not positively show them. They are very adroitly written.

Q. Why did you pay that?—A. Simply because I was in trouble, and he arrogated authority and power to give me more trouble, and he meant to cause the Comptroller to take some criminal proceeding against me.

By Mr. MONROE:

Q. Do I understand you that he stated that Mr. Hulburd was to share with him?—A. He did, as to his salary as receiver; he so stated more than once.

By Mr. WALDRON:

Q. Were you a debtor to the bank when Hill was receiver?—A. Yes, sir.

Q. Were not these payments made on that account?—A. No, sir; they were personal matters entirely.

By Mr. COX:

Q. How much had you owed the bank?—A. I do not remember.

Q. Were any of these sums put down to your credit?—A. No, sir; of course not. I was indebted to the bank when I left it. I had been using the money for purposes that I am very sorry I used it for, now; I did it very foolishly.

Q. Is there anything else in this connection that you can state?—A. I do not know of any other things his agents did, sir. I would like, however, to mention one thing. This is a legal subject, though, in reference to a deposit made in the National Bank of the Metropolis, and I will mention it here. Immediately after these $618,225 in United States bonds were sent to Washington and deposited in the National Bank of the Metropolis, a certificate and receipt were taken for them as a special deposit. We did not purpose to use the bonds at all; that is, we did not purpose to sell them. Mr. Hutchison told us that if we would allow them to remain with him, he would permit us to draw money; and we owed that bank probably forty or fifty thousand dollars. We deposited the bonds in that bank, and I afterward found, to my surprise, that he had taken them to New York, and hypothecated them in other banks in New York, for money. Part were in the Broadway Bank and some in the First National Bank. I came to New York and followed him round there a week, he telling me he was going to pay the money. I said the State was going to draw for the funds, and we must have them. He told me he was going to do it, but really was deceiving me. Finally we found a part of them. After that thing had been done, we went to work and sold the bonds to Jay Cooke & Co., and gave our bank credit for the proceeds. We drew a check on Hutchison for the amount, and employed a brother of John Sherman to go and see Mr. Hutchison in regard to our claim against the bank, and take some sort of collaterals for it. Mr. Sherman did go there and secured the best collaterals he could get, the amount having been reduced to some $39,000. That bank went into the hands of a receiver very soon after, and Mr. Theodore Davis, of New York, was appointed to take charge of its affairs. Had the cashier of the bank in Memphis done his duty, instead of, as I heard in Memphis, allowing himself, when he was receiver of the bank, to be paid off in the sum of $5,000 not to prosecute this claim against the Bank of the Metropolis I believe the Tennessee bank would have got the money. But the thing went along, and no action was taken in reference to our claim at all. The thing seemed to be perfectly quiet, and the Bank of the Metropolis was allowed to go into liquidation without paying this claim at all. I don't understand how a bank with a claim of $39,000 against it can go into liquidation and wind up its affairs, without paying its debts.

By Mr. MERRIAM:

Q. When Mr. Hill was appointed cashier, did you make any application to the Comptroller for a cashier?—A. I came to Washington, and had a conversation in reference to the matter, and he designated Mr. Hill as being a good man to take charge of a bank in the condition that ours was in—in a very bad condition, certainly. I required a man of more experience in banking, for I had none. Probably if I had, we would not have got the thing mixed up. To tell the truth, I don't think I was competent to take charge of the affairs of a national bank.

Q. Did you pay any officer of the Government money for furnishing that cashier to you?—A. No, sir. It has been reported that I made an affidavit that I paid $500 to secure me a cashier. I simply state that I made no such affidavit; I say that in justice to the Comptroller. There was no money paid him for any purpose at all. I don't see how such a statement could be made. I know I never made such a statement, either under oath or any other way.

By Mr. COX:

Q. Did you ever give pay, money or otherwise, in consideration of securing a cashier?—A. No, sir. I never paid any money at all to Mr. Hulburd, for any purpose.

By Mr. MERRIAM:

Q. Have you ever made any purchase that you have made him a present of; and if so, to what amount?—A. I don't think—I rather not answer these questions. These are personal matters.

By Mr. Cox:

Q. They are the most important matters that we have before us. If your object is the public good, we want them.—A. My object is not only that, but to set myself right, for I am laboring under disabilities. One object was to put myself right before the public. I have not only suffered losses in reputation, but I have desired to put myself right.

Q. You do not answer my question. It must be answered in justice to the committee, and especially to Mr. Hulburd. Since this matter has gone so far, you must state the whole truth in relation to him.—A. What question have you to put to me?

Q. The question of Mr. Merriam should be answered.—A. I gave Mr. Hulburd a carriage in Washington.

By Mr. MERRIAM:

Q. What else?—A. A harness.

Q. Anything more?—A. No, sir; I gave no property of any sort.

Q. What was the cost of this carriage and harness?—A. Some six or seven hundred dollars; I don't exactly remember.

Q. Do you remember the date?—A. It was about the time Mr. Hill was appointed cashier, I think.

Q. Before or after?—A. About that time. I think it was after. Neither had it any connection with the appointment of Mr. Hill as cashier.

Q. State all the circumstances to the committee.—A. It happened about that time.

By Mr. DOX:

Q. What was the consideration that prompted you to do it?—A. There was no consideration at all. I do not want to leave any wrong impression in regard to Mr. Hulburd.

By Mr. MERRIAM:

Q. State when and why you bought the carriage and harness.—A. I gave it to him here in this city. I bought it on Pennsylvania avenue somewhere or other.

Q. Did you do it at his solicitation?—A. Well, sir, we talked the matter over; I don't remember whether it was directly——. I gave it to him because I saw fit to do it.

Mr. HULBURD. I wish Mr. Rutter would answer every question promptly.

By Mr. MERRIAM:

Q. We want all the circumstances; when and where, and why it occurred.—A. Mr. Hulburd wrote to me to come on to Washington to correct certain irregularities in the Tennessee National Bank. I came on in accordance with that letter—in response to that letter. And this presentation occurred at that time. Mr. Hulburd called at Willard's Hotel to see me in my room. We just simply walked down Pennsylvania avenue, I think, to Young & Brother, and bought the carriage and gave it to him.

Q. What was the firm?—A. I think it was Young & Brothers.

By Mr. SMITH:

Q. Was anything said about the carriage before leaving the hotel?—A. I don't think there was.

Q. How happened you to go directly from the hotel to the carriage-shop and make the purchase?—A. I don't know how it was exactly. I did not know where the carriage-shop was at all; but we were going by, and saw the carriage.

Q. What made you think of presenting a carriage to him when walking by a carriage-shop?—A. I supposed that Mr. Hulburd would like to have a carriage.

Q. What led you to suppose he would like to have one?—A. I supposed so from his general deportment in reference to it.

Q. In reference to what?—A. In reference to this carriage business.

Q. Will you simply state all the connection in reference to the carriage?—A. I gave Mr. Hulburd the carriage, and presented it to him because——

Q. Had he asked you to do so?—A. He intimated he would like to have a carriage.

Q. Did he make any promise to you?—A. No, sir; he did not promise.

Q. Did you think of buying peace?—A. I really thought at the time it was improper on the part of Mr. Hulburd.

Q. You did not give it exactly as a voluntary gift?—A. No, sir; I did not.

Q. Did Mr. Hulburd intimate to you that he would like to have one?—A. Yes, sir; he did.

Q. What did he say?—A. I don't remember the conversation. A man can intimate a good deal without expressing himself very clearly.

By the CHAIRMAN:

Q. Did you start out for the purpose of going to this carriage place?—A. I don't think we did; I don't remember positively as to that.

Q. Who selected the carriage?—A. I think we both had something to do with it.
Q. Do you know whether Mr. Hulburd had ever been there before—to this carriage-shop?—A. I paid for the carriage with my own personal money.
Q. The question was, whether Mr. Hulburd had been to that shop before with a view of purchasing a carriage?—A. I do not know of his having been there.

By Mr. MERRIAM:

Q. Evidently you had a special love for Mr. Hulburd at the time. What were your special motives for presenting a carriage and harness; what gain was Mr. Hulburd going to confer upon you or your bank, that he should accept this?—A. I supposed at that time that Mr. Hulburd was very much like Hill and Howenstein, and the balance of them.
Q. What did he say to you, that led you to infer that?—A. Nothing at all, except—I just simply inferred so from his general deportment and conversation.
Q. What occurred immediately before or immediately afterward in connection with your bank? Was this about the time the cashier was sent there?—A. Yes, sir; about that time.
Q. What were your impressions in regard to the motive in sending this cashier there?—A. Well, sir, I supposed when the cashier was sent there to Memphis, he was sent there as the tool of the Comptroller; that is exactly what I supposed.

By Mr. HULBURD:

Q. Where were you when Mr. Bull examined the bank?—A. I think I was in New York, probably, or Washington; I do not remember.
Q. Where had you gone, and signed these notes?—A. I subsequently brought this notice to Washington.
Q. How soon did you know the bank had been examined without your knowledge?—A. I don't remember; I think the first information I had of that was here in Washington. I don't remember anything as to the signing of these.
Q. I know that you had official information.
Q. You don't recollect the date when this carriage was got?—A. No, sir; I do not.
Q. And you don't remember when Mr. Hill went to Memphis as cashier of the bank?—A. No, sir.
Q. You think they were about the same time?—A. I think that they were near the same time.

By Mr. Cox:

Q. Have you completed all you propose to say about the carriage?—A. Yes, sir; I do not wish to say anything further.

By Mr. MERRIAM:

Q. Can you give the date of Bull's examination of the Tennessee National Bank in 1866?—A. I am told he examined the bank in August.
Q. Were you in Memphis at the time?—A. No, sir.
Q. How soon after that examination did you return to Memphis?—A. I think it was as soon as I heard of it.
Q. How long after that examination did you come to Washington?—A. Very soon.
Q. Did you have an interview with Mr. Hulburd?—A. Yes, sir.
Q. Was the subject of Bull's report discussed?—A. Yes, sir.
Q. Do you know that he afterward made a supplementary report?—A. A report of some sort was handed to me, of the Tennessee National Bank. But the Comptroller, when this subject was discussed, informed of his intention to take no action in regard to the same. The Comptroller told me at the time that he found some discrepancy about the capital stock of the bank, and he and I went into the room of the Secretary, Mr. McCullough, and talked about that one item of the capital. I assured Mr. McCullough that I would see that the stock was all right, and I subsequently did make the purchase of this property, and made it all right.
Q. You had a copy of Bull's report in your own possession afterward?—A. Yes, sir; but I do not know where it is now.

By Mr. DOX:

Q. Where did you get that?—A. The cashier, Mr. Hill, showed me the report.

By Mr. MERRIAM:

Q. Did you give any clerk of the Treasury Department any money, and if so, for what purpose?—A. Mr. Howenstein had some.
Q. Was he the only one?—A. The only one in the Currency Bureau.
Q. Was there any other?—A. I gave a man some money, a clerk there, who has since died. I would rather not say anything to reflect upon his family or any one connected with him. It was in connection with United States deposits.

By the CHAIRMAN:

Q. Do you know in what bureau of the Department?—A. He was connected with United States deposits in national banks.

By Mr. COX:

Q. What was the consideration for giving him money?—A. That is a question that might possibly involve myself, and I prefer not to answer.

Q. We have a right to insist upon an answer.—A. It was nothing more nor less than allowing a large amount of Government deposits to remain in this bank. I made him presents in money, and he allowed it to remain. He could have transferred it, if he saw fit, into any bank that he wanted to. He had no official relation to Mr. Spinner in any way, but he had the power and authority to use favoritism, and he could allow money to remain in this or that bank, and at the same time not violate the law. Mr. Spinner knew nothing about these transactions.

Q. He did favor your bank?—A. Yes, sir; it was customary to do so. He favored the National Bank of the Metropolis in the same way.

Q. How did you approach him? State the conversation you had with him on the subject.—A. He approached me. We had large amounts of Government deposits to our credit in the bank, and he allowed them to remain.

Q. Did he ask you for money?—A. No, sir; I just simply gave him $500.

Q. Where was this transaction?—A. In his office, right at his desk.

Q. In a check or money?—A. I gave the money.

Q. Did he ask you for the money, or did you propose to give it to him?—A. He did not ask me.

Q. What did you say when you gave it to him? Did you say you wanted to be favored?—A. No, sir.

Q. What was the conversation?—A. There was very little conversation. Men don't talk about——. This man understood it, and so did I. I paid the money and got the favor; and not only that, we paid every single dollar to the Government of the United States when this bank wound up. But we owed on individual deposits; we had a good many from poor people, and I sat up all night in the Tennessee National Bank, and ordered the book-keeper to make out memorandum checks for every individual depositor, and I then ordered the teller to put them in document envelopes, and we paid them all.

By Mr. MERRIAM:

Q. You paid money to that young man and got your pay for it?—A. Yes, sir.

Q. You paid your money for the carriage and harness for the Comptroller; now what favor did you get in return?—A. I just simply believed that if I had not done this I should have been prosecuted.

Q. For what?—A. I don't know; I was in trouble; a man's perceptions about those things——I so understood.

By Mr. COX:

Q. Did you ever make use of money out of your bank illegally?—A. Never a dollar.

Q. You were reluctant to testify in reference to this clerk. Why? Because it would criminate yourself?—A. No, sir; except it might be considered a bribe of this man.

Q. Was that the reason for the reluctance? Did you consider it so at all?—A. No, sir; I did not, because it was a common thing, and I supposed I might as well do so as anybody else.

Q. In your letter you speak of proof that Hulburd, the receiver, and special agents blackmailed you. Have you anything further to say about that?—A. I did not know whether Howenstein gave Mr. Hulburd part of the money, or not; all I knew, they said they had to do it and were going to do it. I simply have their words for it.

Q. Did you state what became of this carriage?—A. I do not know where it is.

Q. What became of it?—A. I suppose Mr. Hulburd has it.

By the CHAIRMAN:

Q. Did he ever offer to return it to you?—A. Yes, sir.

By Mr. MERRIAM:

Q. When?—A. He offered to do so, through Mr. Davis, of New York.

Q. When?—A. It must have been about a year ago, I reckon.

Q. Did you refuse to accept it because it was worn out probably, and the harness?—A. Well, sir, I did not accept it.

By Mr. COX:

Q. State all about this.—A. I have nothing more to state.

Q. Is that all the transaction, that he offered to return it and you refused it; is there nothing else connected with it?—A. Well, there is this connected with it. I had written a letter to Mr. Hulburd for money; asking him to loan me some money; and Mr.

Hulburd did loan me some money—a couple of hundred dollars, probably. As I told you in the outset. I was completely prostrated, with a family on my hands, my reputation and character damaged; and I have been treated like a robber since; and it is a very difficult thing for a man to get employment, especially if he is out of money. From what I had heard, I supposed Mr. Hulburd, under all the circumstances, might be able to pay me back a little of that money, as I needed it pretty bad.

Q. Is that your handwriting?—[Paper handed to witness, marked B.] A. Yes, sir. I know all about it. I wrote it except the paragraph signed by Mr. Davis. I thought that since Mr. Hulburd had, by insinuation, caused me to purchase a carriage and harness for him, and I never got any consideration for the same whatever, and being under no obligation to make Mr. Hulburd a present in any manner, shape, or form; and because he had this property from me without a consideration and under peculiar circumstances; and because the receiver, W. A. Hill, had stated to me time and again that he had forwarded to the Comptroller sums of money, a portion of his salary as receiver—I determined that Mr. Comptroller Hulburd could assist me a little. Therefore—I did not want to damage Mr. Hulburd—I applied to him for money, and told him my condition and the condition of my family, and that they were absolutely in a suffering condition, and I at the same time in rather poor health. But I applied to him for this money that had been procured from me under improper circumstances and improper motives on the part of the Comptroller. I certainly should not have given the Comptroller a carriage and harness unless I had been intimidated by him to do so, and therefore I did it.

By Mr. MERRIAM:

Q. You state that you should not have given Mr. Hulburd a carriage and harness unless you had been intimidated to do it?—A. No, sir. That was my understanding, that, unless I had done it, under that influence——in connection with my affairs with the bank. I did draw a draft on Mr. Hulburd. Thinking over the charges, and liable to trouble from the mismanagement—it was certainly very badly managed, but it was more on account of incompetency than criminality—I did draw a draft on Mr. Hulburd, and wrote him several letters.

By Mr. COX:

Q. Is this one of your letters?—[Letter handed to witness, marked C.]—A. Yes, sir.

Q. Explain what you mean by intimidation?—A. I mean to say that the Comptroller gave me to understand that unless I gave him something I would have trouble.

By Mr. DOX:

Q. Did Mr. Hulburd, by words and acts, intimidate you?—A. Well, sir, I judged from the tone of the conversation that I had with him—I would not do Mr. Hulburd injustice about that thing—I simply judged so; he did not ask for a carriage.

Q. Did he tell you so?—A. I did not say he told me so.

Q. What did he say?—A. By some means or other, I was made to understand it, as I have stated; I cannot say anything more; I was made to understand it.

Q. Why did not you come here from New York, in response to this summons, at once?—A. I did come immediately; came that night.

By Mr. MERRIAM:

Q. Was there any person who tried to induce you not to come? If so, who?—A. Well, sir, Mr. Davis, the receiver of the Ocean National Bank, told me he thought I better not come over here.

Q. Why not? What reason did he give?—A. He did not give any reason at all.

A. What did he say?—A. He simply said he thought there would be no use in coming.

Q. Did he offer you any money if you would not come?—A. He implied as much.

By the CHAIRMAN:

Q. What do you mean by "implied?"—A. I mean he gave me to understand I would receive some money if I did not come.

By Mr. DOX:

Q. How; by word, declaration; did he state that?—A. Said he, you can only get $50, and it will cost you twenty for expenses, and you will make but thirty; and I expect if you stay here there will be a nought added to it. That is about the substance of it; and if I would write a certain letter——

By Mr. MERRIAM:

Q. Was there any one who prompted you to write this?—A. I wrote a draft on Mr Hulburd for $500, and referred to Mr. Davis. I drew it, because he had property for which he gave no consideration. He referred me to Mr. Davis. I went to Davis's office, Mr. Davis having first written a note to me to come and see him. I knew what

it was about, and sent Mr. Copeland to see him. Mr. Davis declined to see him, and said he would not talk with any one but Rutter. When I went, Davis said, "I don't know whether to arrest you or to give you money." I said, "You can arrest me if you want to;" that I was not afraid of his arrest. He replied that in the organization of the bank I had made a false statement and was subject to arrest for perjury; and "not only that," said he, "but I am inclined to think you trying to blackmail the Comptroller." I told him he was mistaken; that I was just proposing to get back what was justly my own, but I could not do it. I would not have thought of these things if I had not been poor.

By Mr. Cox:

Q. State how you came to sign that release.—A. Mr. Davis had a detective or an officer of some sort standing there, with a little cane in his hand. He said to me he had a document written and prepared for me to sign. I told him I would not swear to any such document. Then he told me to sit down and write a letter myself and swear to it. I told him I would write a letter and sign it, but would not swear to it. That is the letter I wrote, [marked B;] and I wrote it under a threat of Mr. Davis to have me arrested. I signed it also in consideration of the sum of $100.

Q. Did you get the money?—A. I did.

Q. Is this all in your handwriting?—A. All except a portion of the two items below.

Q. Where was this signed?—A. In the office of Davis, 38 Wall street.

Q. What is his business?—A. A lawyer.

Q. Has he any other business?—A. He was receiver of the Ocean National Bank.

Q. Did he give you the money?—A. He gave me a check for $100.

Q. On what bank?—A. I do not remember.

Q. What do you mean by "releasing all claims?"—A. Simply that I would release him from all obligations. I did the thing under threats. When Davis proposed to arraign me, I said it was three years since the affairs of the bank were closed, and it was a very remarkable thing to talk about prosecuting me three years after the bank had been wound up. If the Comptroller thought I had failed in administering the affairs of the bank, it should have been done years ago.

Q. Have you written any letters subsequent to that?—A. Yes, sir; I have written a hat full.

Q. Of the same tenor as that of October?—A. I do not know the character. I have written persuasive letters, and others. I intended to get back the money, and when I did that to stop.

By Mr. Smith:

Q. You remarked that the consideration had failed. What consideration? You said you intended to get back the money because the consideration had failed.—A. No, sir; I said there was no consideration, for I received none. I have some papers and memoranda which, if I had, I could answer your questions more satisfactorily.

By Mr. Merriam:

Q. Where are they?—A. Some of them in New York.

Q. Have you been approached since you have been here by any party in regard to your testimony, to prevail upon you not to come; if so, by whom?—A. When I came to Washington I regretted exceedingly that I had written that letter to Mr. Randall, and I did not suppose he was going to give the letter to the committee. I did not want to come before the committee, and I really would now give my right arm if I had not done it, because I don't like to give even facts to injure people. When I came to Washington I called upon Mr. Albert Pike, an acquaintance of mine from Tennessee. I went to his office and found him disabled, and then went to his private room to see him and ask him about this thing. I told him I should be called upon to say things that would reflect upon certain persons, and I did not want to do it if I could avoid it. Said he, "Mr. Rutter, I have but little in this world, outside of my library, that you see here; but I advise you to go before that committee and tell a straightforward, unvarnished story, let it hit whom it may;" and I left him.

Q. It has been testified here that you had been approached by Mr. Hulburd.—A. I met Mr. Hulburd, but I took nobody's advice. When I came to Washington I went to get from Mr. Hulburd a fact to relieve the impression made upon the public, that I had robbed that bank of currency, as stated in the New York Herald. I stopped at the Owen House, and sent a card over by the colored boy to Mr. Hulburd, just simply my name upon it, and Mr. Hulburd came over in response to that card. I asked about the matter I spoke of, and he promised to furnish it to me, but so far has not done so. That is the conversation we had, sir.

By Mr. Smith:

Q. Was there any consideration, direct or implied, for the presentation of this carriage; and if so, what was it?—A. I have told you there was no consideration at all.

C.

Personal.] NEW YORK, *October* 3, 1870.

DEAR SIR: I inclose draft upon you for $500. I regret that necessity compels me and those of my family to pursue this course. I am determined to collect every dollar from persons who have blackmailed me, and procured money and property from me under peculiar circumstances. My family are in absolute want, and are suffering this moment for clothing to keep them warm.

I have taken legal advice before commencing those suits. I have not yet mentioned our transaction, and will not if you pay this draft; otherwise I shall do so. I mean that every politician shall refund to me money and property obtained from me. You are aware of the time you wrote me to come to Washington to correct some *irregularities* in the Tennessee National Bank, as you called it, and of the circumstances of that carriage and harness I bought of Young & Bro. for you in Washington; it cost $625. I have since had, by way of loans from you, $125, making a balance of $500 due me, which amount you must pay me. I am in bad health, and my family suffering. You and others have positions denied me by the Government, and I mean to let the public know what sort of material this radical party is composed of, if they do not pay me, collectively and personally; they have robbed me, and you know it, and I mean to ventilate them at once in the severest possible manner if they fail to give me back what is justly due me. If this $500 is paid me, I assure you that it is an end to this transaction.

Mr. J. D. Mickle, the bearer of this letter, does not know our transactions; but if this draft is not met he will know all about it. I have authorized him to place it in the hands of Washington attorneys for collection, if not paid. You are in condition to pay it, and you will see the justice of it, and hope will spare me the pain of lugging it before the public. I mean to collect all such claims at all *hazards*, let consequences be as they may. If you prefer to make it a private affair, it can be so by paying it; this is with you.

I do firmly intend to have the money back obtained by politicians from me, which has rendered my family penniless and destroyed me.

I leave the affair with you; act as you see fit. It will be useless to discuss the question with Mr. Mickle, as he only acts as a friend for me to collect the claim, and I would not pain you with any publicity, if I can get the money *at once* without it.

Send the draft to me on the Ocean National Bank, and payable *alone to my order*, as no one else is authorized to collect the money on your draft. My health is bad, and condition truly deplorable.

Yours, &c.,

GEO. R. RUTTER,
Care of Lewis Daniel & Co., 14 Wall street, New York.

H. R. HULBURD, Esq.

B.

THEO. M. DAVIS:

Some time in the year 1867 I made a present of a carriage and harness to Mr. H. R. Hulburd, of Washington city. Having had so many reverses of fortune, I find myself and family in extreme want of money. I am thus compelled to call upon my friends for aid. This carriage and harness was presented to Mr. Hulburd when I had means and was in a prosperous condition. I have learned that he is willing to return this present to me, he knowing my present pecuniary embarrassment. If he will do so he will thus greatly relieve me, and do a kind act to my family.

Yours, truly,

GEO. R. RUTTER.

DECEMBER 13, 1870.

G. R. RUTTER, Esq.:

I will pay you $100 in full for said carriage and harness.

Yours, truly,

THEO. M. DAVIS.

DECEMBER 13, 1870.

THEO. M. DAVIS:

SIR: I accept your proposition, and release all claims to aforesaid property.

Yours, truly,

GEO. R. RUTTER.

DECEMBER 13, 1870.

OWEN HOUSE,
Washington, D. C., March 12, 1872.

DEAR SIR: Mr. Hulburd thinks my testimony does him injustice in its not being more definite as to dates. I cheerfully accord to him the benefit of my recollection in the absence of information not now within reach, and request that this statement be filed as a part of my testimony. My presentation of a carriage to Mr. H. occurred before Mr. Hill was appointed cashier of this bank, and without reference to his appointment.

I wish also to withdraw the word "intimidation," used in connection with the presentation of this carriage to Mr. Hulburd, and in justice to the Comptroller, to state that my recollection is that I did receive a letter written by J. H. Howenstein, of the Department, as well as one from the Comptroller, requiring me to correct irregularities reported by Mr. Bull, the examiner of this bank, and that in accordance with this request did make the capital stock good, and upon my return to Memphis delivered over to the bank the currency taken away by me to sign during my absence, and reported the same officially to the Comptroller's Department; and think it also proper to state that Mr. Bull, the examiner, told me since I have been before your committee that these were the only items of any importance requiring correction in his report made to Comptroller Hulburd.

Respectfully yours,

GEO. R. RUTTER.

Hon. SAMUEL HOOPER,
Chairman Banking and Currency Committee.

WASHINGTON, D. C., *February* 20, 1872.

HENRY H. SMITH duly sworn and examined.

By Mr. COX:

Question. State your name and occupation.—Answer. Henry H. Smith; clerk of the Committee of Claims.

By Mr. MERRIAM:

Q. Give to the committee what information you can in regard to your knowledge of the National Bank of Memphis, Tennessee, in connection with Mr. Rutter and the Comptroller. What was your occupation at the time of the first examination of that bank by Mr. Bull?—A. Clerk in the office of the Comptroller of the Currency.

Q. State what you know in relation to that matter at the time.—A. Well, sir, it is so long ago that my memory is not very fresh on the subject. I can give what I remember. I was, in the summer of 1866, a clerk in the division of reports, to which came the reports of the banks and the reports of the examiners. It was then part of my work to examine the reports and to compute the reserve, and do various kinds of work, under the direction of the chief of the division, Mr. Howenstein, now cashier of a bank in Saint Louis. I remember in regard to the bank at Memphis that there had been some irregularities on the part of the bank, as shown by its own reports to the Comptroller; there had been some deficiencies in the reserve, and some heavy overdrafts, that it was a part of my duty to write letters in regard to. And at the time the last report came in, Mr. Howenstein thought it would be necessary to have the bank examined. Shortly afterward an intimation was received from Mr. Callender, or from some source in New York, that the bank was in a bad condition; and Mr. Bull, then examining banks, was sent from New York to Memphis to examine this bank. He made a report of his examination. All the reports came to our room for examination. Mr. Howenstein then wrote a very severe letter to the bank, which I copied. He wrote it very hurriedly, and I copied it. Mr. Howenstein said he would take the letter to Mr. Hulburd, then Deputy Comptroller, Mr. Clark, the Comptroller, having just resigned, and tell him that while it was a severe letter, he thought they ought to go further and put the bank in the hands of a receiver. He took the letter, after I had copied it, to the Comptroller, and came back in about fifteen or twenty minutes, with the letter, which Mr. Hulburd had not signed. He said Mr. Hulburd would not sign the letter; and in the course of conversation, he said he found Mr. Rutter in there with the Comptroller. I had the letter for a long time in my desk, not signed; and afterward Mr. Howenstein destroyed it. Mr. Bull came in, probably three or four days after his report had been received through the mail—possibly it was a week—and he asked what action had been taken on his report of the Memphis case.

By Mr. MONROE:

Q. Was this severe letter, of which you speak, written by Mr. Howenstein?—A Yes, sir.

Q. Was that written upon the receipt of Mr. Bull's report; after that was received?—Yes, sir.

Q. Can you fix approximately the date of that?—A. It was just after its examination.

Q. About what month?—A. The report was made in the summer, in August some time. He also examined two or three other banks in Memphis.

Q. Had he previously received unfavorable reports?—A. Unfavorable impressions had been gathered from the reports proper before Mr. Bull's report was received.

Q. How long before had you begun to get unfavorable reports?—A. I believe the banks were then reporting quarterly, and every quarterly report would show some irregularity in the bank.

Q. How long previous?—A. I think for two quarters.

Q. Were these serious?—A. You could not gather from the report itself whether they were or not. They might show large deficiencies of reserve.

Q. Were your suspicions aroused?—A. They were, somewhat. One thing was, that the money which had been deposited by the State officers of Tennessee in the Memphis Bank had been placed in the National Bank of the Metropolis, and this was shown to be in a rather shaky condition, and the president of the bank was speculating in New York.

Q. How long after Howenstein's letter was written was it when Mr. Bull's report was received?—A. I think a week after the examination. My attention was particularly drawn to it at the time, because Mr. Howenstein and I had had some correspondence with another bank of a somewhat similar character, under Mr. Clark's administration—it was a bank in Maryland—and the subject was discussed at the time.

Q. Have you any knowledge of the motive that brought Rutter to Washington at the time?—A. No, sir. I know he asked if there was a supplementary report of Mr. Bull.

By Mr. MERRIAM:

Q. Was it usual for a bank president to see the reports of the examiners?—A. It was not usual in our room. The reports of the examiners were considered confidential, and for the information of the Comptroller, and not to be disclosed to any of the officers of the bank. If a bank officer came into our room and desired to see a copy, it was only given by the direction of the Comptroller or deputy.

By Mr. MONROE:

Q. This report was received at your office about the 1st of September?—A. Yes, sir. The examiners frequently sent in a batch of reports together in one envelope.

By Mr. MERRIAM:

Q. Did you see the original report of Mr. Bull?—A. Yes, sir.

Q. What was your impression about it?—A. It was thought to be a pretty bad state of affairs. Mr. Howenstein noted quite a number of irregularities. He remarked to me that he thought the bank should be placed in the hands of a receiver, and would like to go there.

Q. Did you have any conversation with Rutter about the condition of the bank?—A. Yes, sir; after he came up, but not till I had seen Mr. Bull. I had a slight acquaintance with Rutter. He was frequently coming in and inviting gentlemen out to lunch. I went once or twice to eat some oysters at Welcker's. In the course of conversation, he asked me something in regard to the report. I told him I was not at liberty to tell him about it; it was a violation of rules. He said he knew that. I said of course he need not ask me. He remarked, "They are going to put me up in the stocks or on the docks, wind me up, or something of the kind, are they not?" I said I did not know, but there had been some conversation of that kind. Said he, "Bull recommended it in his second report." I said I believe he did. He said, "I guess they will not do that; I have that all right; I'll beat the gentleman yet." We met Mr. Jenkins going out, and the subject was resumed and discussed by us; and Mr. Rutter, Jenkins, and myself went up to Welcker's and had this lunch. That was the only conversation I had with Rutter.

By Mr. MONROE:

Q. Had Mr. Rutter been about your Department before?—A. Only once or twice. He had a good deal of business with Hutchison.

By Mr. MERRIAM:

Q. Did he intimate how he had fixed the matter up?—A. No, sir; the impression was that he had made some arrangement to prevent being put into the hands of a receiver.

Q. With whom?—A. I supposed with the Comptroller. He could make it, and no one else. Mr. Clark had resigned, and Mr. Hulburd was not appointed till February. Mr. Clark resigned about a month before Mr. Bull's report was made.

Q. It has been said that Mr. Hulburd was not the Comptroller. He was the acting Comptroller?—A. Yes, sir.

By Mr. FARWELL:

Q. Did Mr. Rutter say he had made an arrangement with the Comptroller?—A. No, sir. He said he had fixed the matter so that he would not be put into the hands of a receiver. I drew that as the natural inference, as Mr. Hulburd had the entire control of the matter. If it were proper to put the bank into the hands of a receiver, he alone could do it.

Q. Do you remember the words?—A. He desired to see the contents of Mr. Bull's report. In the course of conversation, passing out of the Treasury, he said that Mr. Bull recommended that the bank be wound up, or that he be put in the stocks or the docks; I made a reply to that; and then he said again, "I think I'll beat the gentleman yet; I have fixed that matter." He referred by beating the gentleman to Mr. Bull. Mr. Bull brought in a supplementary report from Alexandria, and came and asked for the Comptroller, who was not in at the time. So he came in to see Howenstein. Afterward, when he went to see the Comptroller, he came back greatly excited, and said he found Rutter had got ahead of him.

By Mr. MERRIAM:

Q. Can you give the substance of the letter of Howenstein to which you have referred? To whom was it directed?—A. To the president of the bank. He called attention generally to the condition of the bank, as shown by the report. He talked of the irregular features of the bank, that were in violation of law, and then pointed out the remedy. Considerable pains were taken with the letter, and the subject was discussed quite freely. I know it was thought by the clerks who took any interest in the reports at all that the bank ought to be wound up; that Rutter was a man not experienced in banking transactions, in whom they had no confidence; and that the bank ought to be wound up on account of the large amount of the State funds, school funds, and others. It was thought that by continuing it the school-fund was put in jeopardy.

By Mr. COX:

Q. Who had the custody of these reports?—A. They were placed on file in the division of reports. Mr. Howenstein had charge of the division.

Q. Did Mr. Rutter tell you from whom he got his knowledge of the report?—A. No, sir. He satisfied me that he knew about the contents of the report, because he went on to explain certain features. He said Mr. Bull commented upon the fact that he had taken away a considerable amount of the securities. He said Bull was an old granny; that it was done by all bank officers; that he took a few notes along with him that he could sign as he was on his trip, to pay his expenses.

By Mr. FARWELL:

Q. You say he said he had it fixed up?—A. Yes, sir.

Q. You inferred from that that he had made some arrangement or contract with the Comptroller?—A. Yes, sir.

Q. Could you not equally have inferred that he had fixed it up by paying in the reserve?—A. No, sir; that would not follow; for the reason that the officers of the bank had sworn that the capital stock was paid up. The report of Mr. Bull showed that it was not paid up. That oath was on file in the office; and they could not get the currency without the certificate of the payment in full of the capital stock. That certificate and oath was on file that it was paid in. Mr. Bull's report showed that it was not half paid in.

By Mr. COX:

Q. Who made the oath?--A. I do not remember.

By Mr. FARWELL:

Q. What did you desire to convey to us when you say that the Comptroller was the only officer who could do anything to fix it up?—A. I do not know that I can convey that, except by the conversation of Rutter; that he had fixed the matters of his bank so that the bank would not be put in the hands of a receiver. There was no other way of fixing it up under the law, except by the Comptroller doing something to prevent that action from being taken.

By Mr. COX:

Q. Do you mean illegally?—A. If Bull's report was a true report, I don't see how there could be any legal way to fix it but to put it in the hands of a receiver.

By Mr. MONROE:

Q. Were there any reasons given from the Comptroller for not signing that letter?—A. No, sir. Howenstein said he found Rutter in the Comptroller's room, and he was very much disgusted.

By Mr. FARWELL:

Q. Would it not be a common thing for a president of a bank to visit the Comptroller to explain any matter in his correspondence?—A. I do not know. It was not a common thing, I think. There might be some details that might need explanation, and being in the city he might have an interview with the Comptroller; and the Comptroller might have a letter ready to send which the interview would render it unnecessary to send.

Q. These interviews are not unusual, then?—A. No, sir.

By Mr. MERRIAM:

Q. The letter was considered as an official document?—A. Yes, sir.

Q. Do you retain the copy?—A. The practice is, after the letter is signed by the Comptroller, to take a press-copy, and then it is afterwards copied.

Q. Then, after you determine to take any action in regard to the bank, it is put in writing and the bank is notified?—A. No, sir. If Mr. Hulburd had designed to put the bank into the hands of a receiver, he would not have notified them.

Q. It seems, then, that this was not conveyed to Mr. Rutter?—A. No, sir.

Q. But in cases where you wished to convey an official matter to the officers of a bank, you put it in writing?—A. Yes, sir.

By Mr. FARWELL:

Q. How long did this bank run after this time before a receiver was appointed?—A. The receiver was appointed along in the following spring of 1867. It would be eight or nine months. I don't remember the exact time. I remember Howenstein had intimated to me one evening that he might go away, and his telling me about some detail work that he wanted me to look after. I found the next morning that he had gone to Memphis to put the bank in the hands of a receiver; and came back from Memphis, I suppose, in the latter part of March.

By Mr. MERRIAM:

Q. Was the impression in your Bureau that, if this bank had been put into the hands of a receiver at the time the first report was made by Mr. Bull, this money would have been saved?—A. I know that it was Mr. Howenstein's impression, and it was mine.

Q. Do you say that the National Metropolitan Bank here was under suspicion?—A. I do not remember; but I remember that shortly after, it went into liquidation, and the books of the bank show that they had this account with the Memphis bank, on both sides of their ledger, showing that this money received from the school-fund of Tennessee had been received by them, and by them been put into a bank in New York. Mr. Bull had examined not only the National Bank of the Metropolis, but almost all the New York City banks. I think he told me afterwards that he gathered some information that led to the rotten condition of the Memphis bank, when he was in New York, in the course of his examinations there.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Do you remember that Mr. Bull, in his report, said that the stock was not paid in, or improperly paid in, and stock-notes given?—A. Yes, sir. He said stock-notes were given, and he said that he had information through a gentleman there, that the notes were given without any expectation that they would be paid; that there was a private arrangement with Mr. Rutter that these notes were not to be paid.

By Mr. COX:

Q. Can you tell when Howenstein went out of office?—A. I guess it was in the fall of 1867.

Q. How long did he remain after this transaction?—A. Possibly a year; I do not remember.

Q. Where did he go?—A. To Saint Louis. He was made an examiner of banks through the southwestern country.

Q. Did Mr. Rutter tell you he had paid money to Howenstein?—A. No, sir.

Q. Did he say he had got any advantage there through him?—A. No, sir; at that time Howenstein had not very much feeling for Mr. Rutter, and regarded him as a very poor financier. He wanted to be elected as cashier, and remarked that he would take that bank and put it in a good condition. Howenstein and I were particular friends, and the matter was discussed a good deal between us.

By Mr. WALDRON:

Q. You spoke of the supplementary report made by Mr. Bull; how long was that report after the original report, in August?—A. Within a week or two.

Q. Was he sent back to make it?—A. No, sir; it was made in Alexandria; I think he told me that he was hurried away from Memphis, and did not have time to write out the first report as carefully as he had expected. I understood he did not keep a

copy of his report in full, but he had his notes and memoranda, that he had made during the examination; and when he got to Alexandria he wrote a letter to the Comptroller, explaining more in detail the features of his examination.

Q. Was the conversation with Rutter, while going out to lunch, on the same day that the letter of Howenstein was taken to the Comptroller to be signed?—A. It was after the supplementary report.

Q. About what time do you fix the date of that conversation with Rutter?—A. It was some time in September, probably.

By the CHAIRMAN, (Mr. HOOPER:)

Q. That bank made a regular quarterly report the 1st of October, did it not?—A. They were required to do so by law, but I do not remember whether they did or not. There were sixteen hundred and odd banks; and I had usually the reports in New York and Pennsylvania to attend to and file them; I never had the State of Tennessee or any southern State on my abstract sheet; so that I would not know whether the bank made a report or not, without having my attention called to it. I presume they did make one.

Q. You being interested in Mr. Bull's report, and having such an unfavorable impression in regard to the bank, I should have supposed you would try to know more about the report.—A. No, sir; because it would not show anything of importance to us. It was only through the reports of the examiners that anybody could gather anything in regard to them. The bank might have a very large deficiency in reserve, and large amounts of over-drafts, or a great amount in suspended paper. These things would not be shown by the report; they would appear only by an examination of the books of the bank.

Q. If I understand you, they report quarterly?—A. They should have reported quarterly.

Q. Whenever they did report they reported the capital to be $100,000?—A. They had previously reported that.

By Mr. MERRIAM:

Q. I find, on examining matters in relation to the organization of the Union Square Bank of New York, some items of expense; the first item I notice is for a collation, $630 77. Then there is another item, put down as "Expense to Washington, $3,777 10." Can you give us any information in regard to what that $3,777 10 meant?—A. No, sir; I resigned from the Union Square Bank in 1870. It was put into the hands of a receiver only a little while ago.

Q. Do you know what are called "expenses" here were for?—A. I do not know; I have not the slightest idea what they could properly be for, beyond railroad fare and hotel bills.

Q. Have you ever heard that any portion of that was ever paid to any person in the Treasury?—A. I have no personal knowledge in regard to it.

Q. What can you tell us in regard to it?—A. I have heard a statement, but unless it is insisted upon I don't like to state it.

Q. I insist upon it; it is important we should know it.—A. The statement was made to me that a brother of Mr. Hulburd had received $2,500 of this money.

Q. Who told you so?—A. I should prefer not to tell. I don't know but that it would be violating confidence.

Q. We can have no confidence here; we want to get at the facts.—A. I heard it from a relative of Mr. Hulburd's, a young man by the name of Corwin.

Q. Was he a nephew of Mr. Hulburd's?—A. I think so.

Q. What was his name?—A. John, I think.

Q. Do you know where he is at present?—A. No, sir.

Q. Did you have any intimation of what became of the balance of the money?—A. No, sir; I think it may be better to state how this came about. Mr. Corwin was a clerk in the same division in which I was a clerk; in talking about some matters he said he wished he was as well fixed as Lew. Hulburd.

Q. Who was he?—A. He was an examiner of the banks in Virginia, and he had gone to New York to assist Mr. Callender. Mr. Corwin remarked that he wished he was fixed as well as Lew., that he had just made a strike of $2,500.

By Mr. COX:

Q. Was that while he was an officer of the Government?—A. Yes, sir; he was an officer; an examiner of banks.

Q. How did young Corwin say he got this information?—A. He remarked, "I wish I was as well fixed as Lew. is." Young Hulburd was a social, jovial gentleman, and we had been conversing together there, and Mr. Lew. Hulburd had just gone out, when young Corwin remarked that he wished that he was as well fixed as Lew. I asked him how he got so well fixed. He said for getting a new bank through. He said a new bank in New York, and I inferred that it was the Union Square Bank, and so I

said, "The Union Square Bank?" Then he asked me how I knew it, and I told him that I did not know it, beyond what had he said. A man came to me, whom I afterwards learned was a detective, who came and asked me if I knew anything in regard to a bribe being offered to the Comptroller. I said no, I knew nothing about it. He said it was stated that $5,000 was charged for the charter of the Union Square Bank, and that the Comptroller had one-half of it.

Q. Who was he?—A. I do not know. He was a detective in the Department. I had seen him about the Department, and he came and asked me and I told him I knew nothing at all about it. He said the charge had been made by a New York banker, who wanted him to work up the case. He made the same inquiry of two or three other clerks.

Q. There has been some talk about the general custom of clerks receiving money for services. Have you heard of any other instances of officers receiving money for any such services, outside of their salaries?—A. No, sir; I have never heard of any particular case. It was sometimes the practice for clerks to receive a compensation, or fee, for some extra services, if some information was given. There were two or three who received some extra compensation in that way.

WASHINGTON, D. C., *February* 22, 1872.

THEODORE M. DAVIS duly sworn and examined.

By the CHAIRMAN:

Question. Please state your name, residence, and occupation.—Answer. Theodore M. Davis; I reside in New York; I am a lawyer.

Q. Are you acting as receiver of the Ocean National Bank at present?—A. I am.

By Mr. MERRIAM:

Q. Did the Metropolitan National Bank go into liquidation?—A. Yes, sir. I was attorney for the bank to close up its affairs. I was employed by the officers of the bank. The bank was never placed in the hands of a receiver. I was employed by the stockholders and officers. The bank owed some $700,000. Its assets consisted in about $400,000, in Government bonds, and some bills receivable. I was appointed as their attorney by the stockholders. I took possession of the assets and paid the Government whatever was due, in full. I paid off every debt the bank owed, except two disputed claims. One of these was by the Tennessee National Bank, for $10,000. In the course of extensive personal dealings of Hutchison & Rutter, this claim originated. Hutchison denied the claim; and when I came into the position of attorney I insisted that the $10,000 should be allowed. Hill insisted it should not be; and we both appealed to the Comptroller, and the Comptroller refused to allow it.

Q. You say you paid the Government all that the bank owed it?—A. Yes, sir.

Q. Did it receive its interest?—A. It did not owe any interest. When you speak of interest you raise a legal question. The bank owed the Government some $700,000; we had $400,000 in Government bonds, leaving a margin, which I paid up. When I had paid the principal Mr. Spinner demanded interest upon the Government deposit, and I contended that the bank was not liable for interest. We referred it to the First Comptroller, and it was decided in my favor. Then Mr. McCulloch referred it to the Attorney General, and it was decided in my favor again, that the Government was not entitled to interest. I proposed to pay a part of the claim of the Tennessee bank. There were some collaterals that I hoped to get some money on. But shortly after, the bank went into the hands of others, and it run along until the claim was outlawed. That, and another claim that we disputed, are now in the Supreme Court of the United States. That was my connection with the Bank of the Metropolis. I had nothing to do with Mr. Hulburd about that.

Q. Why was there no receiver appointed?—A. There was no occasion for that. There was then no authority under the law to have one appointed.

By Mr. HULBURD:

Q. Did you ever pay the receiver of the Tennessee National Bank any money for not prosecuting that claim against the National Bank of the Metropolis?—A. No, sir.

Q. It is alleged in this testimony that the Tennessee National Bank might have recovered that $39,000 if money had not been paid.—A. Money was never paid, never thought of; not a dollar.

Q. Please examine the paper marked "B."

[The paper was read by witness.]

By Mr. MERRIAM:

Q. Is that your signature?—A. Yes, sir. To understand it properly it is necessary

to say that long before this Rutter had come to me often to see me in connection with the affairs of the Tennessee Bank, and through my connection with that bank, and through what Rutter had told me—for he had made propositions that none but a rascal would make—I knew all about him, and I judged him to be the veriest rascal that walked. That being my estimate of the man, I knew how to deal with him when he came to my office and told his story. He said, "When I was rich"—and I remember distinctly correcting him and saying, "When you thought you was rich"—"I gave Mr. Hurlburd a carriage and harness. Now I am poor, and Mr. Hulburd is rich, and he has got to pay me for that carriage." I said, "Rutter, what did you give him that carriage for?" He said, "Nothing in the world except that Hulburd was a good fellow, and I was rich and could afford it. He is not the only man that I have given presents;" and he went on to tell what he had done in Memphis. I said, "Did Mr. Hulburd give you anything?" "Oh, no." "Did he give you any time to let your reserve run back, or anything of that kind?" "Not a thing. He resented that; not a thing; he did not ask a thing." I said, "Rutter, do you know how mean a thing, and how contemptible a thing it is to give a present and then come and ask pay for it?" He didn't care anything about it; he wanted money. I got excited, and called him everything I could think of; I gave him a cursing and told him to leave the office. A few days after, I got a letter from Mr. Hulburd, telling me that Mr. Rutter had written to him about this matter, and telling how poor he was, and asking for some money. Mr. Hulburd went on to say something about Rutter's wife; that he had no feelings of kindness to Rutter, but was sorry for his family; and that he had already loaned Rutter money from time to time, when he came and told about his family; and that, taking everything into consideration, he thought the best way was to pay Rutter just what the carriage was worth, and make a business transaction of it. A day or two after that, Rutter came into my office. In this letter Mr. Hulburd detailed the circumstances under which the carriage was given; that he was going down the avenue, Rutter having been in the office with him; and when he attempted to leave Rutter, Rutter followed him; that he had been looking at a carriage, and told the maker he would give a reply in a few days. Shortly after Mr. Hulburd received a letter from Rutter, saying he had paid for the carriage, and asked Mr. Hulburd to accept it. Mr. Hulburd wrote to him that he declined to accept it, and let it remain there several days or weeks. That was the substance of it. I asked Rutter about it, and he corroborated what Mr. Hulburd had written. I again repeated my question, if Hulburd had done anything wrong about the carriage; and I cross-questioned him to the best of my ability. Rutter declared it was just a gift from one gentleman to another, and resented the idea that he had received anything.

Q. Did not you consider it very remarkable that Mr. Hulburd should accept a carriage from a man of such a character as you have given to Rutter?—A. O, no; Rutter's reputation was not then established. The giving of the carriage was along in 1866; and this conversation with Rutter was in December of 1870. Rutter did not develop till 1867 or 1868. I at that time questioned him, and he told me the same story.

By Mr. FARWELL:

Q. When did you first become acquainted with Rutter?—A. I saw him in the Bank of the Metropolis here, when he and Hutchison were laying plans about some business transactions. He was in jail in New York, and it came out there.

By the CHAIRMAN:

Q. About what time was that?—A. It was after 1869.

Q. That you learned his true character?—A. No, sir; I knew it before, after his bank had failed, and Hutchison had told me about a great many of his transactions.

Q. How long from the time of presenting the carriage to the time you speak of?—A. I do not know when he presented the carriage.

By Mr. MERRIAM:

Q. What I wish to know is, why you were so particular about the conversation in connection with the carriage?—A. That was in December, 1870. I then knew all about him.

Q. This conversation was in New York, and not in Washington?—A. Yes, sir; but Rutter was known to the public after 1866; I don't think I knew him until 1867. Then was the time he was being exposed. I don't know whether he was in jail or in the police headquarters. He told me in this conversation in 1870, in December, just how it was. He said the only reason why he asked for it was because Mr. Hulburd was rich, and he was poor; that he had given the carriage when he was rich; but that he had fallen so low he was willing to ask for it. I said, "What is the carriage worth?" I don't remember the figures; he figured up what it was worth, and the amounts of money that Mr. Hurlburd had paid him from time to time, and loaned him, and we struck a balance, as to the value of the carriage, over and above what he had been paid for it.

Q. You say you proposed to make it a business transaction, and you gave him $100 for a carriage that had been in use several years. Did you propose that he should buy it and take it at what it was then worth?—A. No, sir; I said, "What did the carriage cost?" He told me; and he said, "Mr. Hulburd has given me or my wife some money, and, I think, about the fair price of that carriage would be so much money."

Q. Do you say that this $100 would make up the cost of the carriage, together with what Mr. Hulburd had paid him?—A. I don't remember how it was; I remember that was the settlement.

Q. Then you considered, this being a business transaction, that he was to buy it at a certain price, and then buy it back at a lower price?—A. No, sir; I have given the carriage; you have given me so much money; I owe for that; now, if you will give me so much money I will be perfectly satisfied. Mr. Hulburd told me to pay its full value. I made the transaction with Rutter myself. I am quite sure that Mr. Hulburd directed me to pay more money to Rutter than I paid him; because I had no scruples at all in driving the sharpest bargain I could, and I did it. I asked him if he had anything else that he wanted to be paid for. As to this being signed under threats, it is false. I said, if he was where he ought to be he would be in the penitentiary. There were no threats at all; there is not a word of truth in that. The second time he came I treated it simply as a business transaction; I talked to him then just as you would under the same circumstances. I told him he ought to be in the penitentiary.

By Mr. MONROE:

Q. Did Mr. Rutter, when speaking of what Mr. Hulburd owed him for the carriage, say anything further about Mr. Hulburd's having black-mailed money from him?—A. No, sir. He has never, in his conversation with me, said anything against Mr. Hulburd; on the contrary, he has lauded him to the skies. I said, "Rutter, I will have an affidavit drawn; you tell the facts, and then swear to them." Rutter said, "My word is as good as my oath." I said, "I think it is." Then I said, "Go into the front-room and write your letter." I remember I was busy; and he went there and brought back this letter. I said, "Sign it." Then I gave him a check for $100. I said, "Take it and go," I did not want to lay my eyes on him again. I wrote to Mr. Hulburd, and he sent me $100. There was no policeman, no detective at all; and no threats at all.

Q. How about your trying to prevent him from coming here?—A. Rutter came into the bank as soon as I was appointed, and told the same story he has told about his wife and children, and wanted me to give him some money. I hesitated between damning him and giving him some money. I finally gave him $5. Then he came into the office a week ago and said to me, having a New York Herald in his hand, "Have you seen this?" I asked, "What?" He said, "It is that damned scoundrel, Bull." He said, "It is very important that I go to Washington, because there is not a single word of truth in what is said about the Tennessee National Bank." Then he went on to explain. I paid no attention to it. He told about his bringing away currency to sign; and then went on with a long string about what he had done for the democratic party in Tennessee. Then he said again he ought to go to Washington. I said, "Then why don't you go; I have nothing to do with it." He thereupon pulled out his *subpœna*, and said, "They are very anxious to have me go." He said, "I have no money." I said, "Do you want me to advance money? I have nothing to do with it. If what you say is true, I will write." He wrote, and I signed it. I got a letter from Mr. Hulburd, inclosing $15 to pay the expenses of Rutter over here. He at the same time told me to use it if I thought proper. He also wrote that Rutter had written to him, very urgently, making charges against him. When Rutter came in again, I said, "How does this happen that you have written to Mr. Hulburd, making charges against him?" He said he never did anything of the kind. I said, "You did." He said, "So help me God, I never wrote a letter to Mr. Hulburd about it." I said, "Rutter, this is cool." I said, "I hear that you made an affidavit down in Tennessee that you paid $5,000 to Mr. Hulburd for getting you a cashier." Whereupon he swore again that he did not. I said, "I know how it is, and consequently I cannot give you the money while you are making charges against Mr. Hulburd; and now you come and say to me that you will go and vindicate Mr. Hulburd. Mr. Hulburd cannot properly give you a dollar in money. If you want to go, write to Ordway." I said, "If you are going over to make charges against Mr. Hulburd, I have no money for you." He said it was very important that he should go, and he must have money. I said, "I will write to Mr. Hulburd again about it, and you come in again, day after to-morrow." He went off. I wrote to Mr. Hulburd, and he told me to use my own discretion. Rutter came in again, and whopped right round; and said he, "Davis, I don't think it will do for me to go over. My testimony will be all in Mr. Hulburd's favor." I said, "I think so too, if you make the statements you make to me." Then he said, "They want me very much; Mr. Ordway has telegraphed to me yesterday and the day before." I said I would give him $100 for every telegram he had. He said it was down town, and he could not get it. Then he talked to me about the importance of his not

coming here; he wanted to go to Kansas. I said, "Why don't you go." He said, "Davis, if you will give me money I will not go over. It will cost me $20, and I shall get only $50, and that will leave me $30." Said he, "Davis, you put a nought to that, and I will not go." Then he talked about being a loafer, and was going to reform and try to lead an honest life. I then began to talk to him, and gave him a moral lecture. Then he said, "I will not go to Washington." I said, "Just as you please;" that, "If you want to go, your way is to write to Ordway and tell him you have no money." I told him I didn't care a snap, he would get no money from me. He said he would come and see Mr. Hulburd. He hung about a while, and the next thing I heard he was in Washington. His statement that I tried to keep him away is false. On the contrary, my instructions at first were to give him money to come over, from Mr. Hulburd. Then, when I saw what he was coming for, I refused to give him any money. That is my connection with that.

By Mr. FARWELL:

Q. Have you the letter which Rutter wrote to Mr. Hulburd, referred to here?
[The letter was handed in by Mr. Hulburd. The following is a copy:]

"NEW YORK, *February* 10, 1872.

"H. R. HULBURD, Esq.:

"I see a notice in the Herald of to-day, (Saturday,) upon which I called to see Mr. Davis. I have also received a subpœna from the Banking and Currency Committee to come to Washington *instanta*, as a witness. It seems that Bull is making some reckless charges. I have no money to pay my railroad fare to Washington. Davis suggested that I write to you to send me enough money to come over. I will call and see you upon my arrival, if you do this. If you send it, send it to Mr. Theodore M. Davis, receiver Ocean National Bank, and I will call for it. It must be sent, if at all, immediately, so that I can get it on Monday.

"Yours,

"GEG. R. RUTTER.
("*Care of R. P. Salter & Co.*, 144 *Pearl Street.*")

By the CHAIRMAN (to Rutter:)

Q. Mr. Rutter being present, will you state if you wrote that letter?—A. (By Rutter.) I wrote it in Mr. Davis's office, at his suggestion.
[In this connection the examination of Rutter was continued.]

By Mr. MUNROE:

Q. What were the reckless charges that Mr. Bull was making?—A. That the bank had lost by my carrying off some currency. I believe Mr. Hulburd had the information in his office that would enable me to correct that statement, and relieve me from the charge.
Examination of Mr. DAVIS resumed.

By Mr. MERRIAM:

Q. Is Mr. Callender a debtor to the Ocean Bank now?—A. He is on paper there to the amount of $117,000.

Q. Anything beyond that?—A. There might be a few drafts; but I think the $117,000 covers the whole amount.

Q. Do you know to what amount he was indebted to other banks?—A. I do not know.

Q. What knowledge had you that he had ever given loans in any other bank?—A. Two or three years ago I was told by one of the principal bank officers that Callender had a loan of Portage Lake bonds. Mr. Hulburd was in my office, and I said to him, "Do you know Callender is borrowing money of the Ocean Bank?" He said, "No." The next day, Callender being in my office, I asked the question, what it was about his borrowing money. He was very much surprised and said, "I intend to take it up to-morrow." Mr. Hulburd said the thing must be stopped; he did not care what the security was; if money was borrowed it must be done outside. Callender went on to say a great deal. Mr. Hulburd spoke very severely of what Callender had done, and Callender resented it. Mr. Hulburd said it must stop, and spoke very sharply about it.

Q. Did Mr. Hulburd ever ask you if you knew anything about more loans?—A. No, sir; I interfered because I was a friend to Mr. Hulburd. Callender had told me time and again that his matters were all straight with the Ocean Bank.

Q. Were you aware, after that, of his having any loans in any bank?—A. No, sir; I was not until just about the time the Ocean Bank failed.

Q. How long before?—A. About two days. A man by the name of Shaw, a broker, told me. Two of the directors of the bank did not know it. It was kept very quiet. Really, he did not have any loan. He was agent of the Portage Lake Canal Company, and he borrowed it on their paper, and very stupidly indorsed their paper.

Q. Did you not tell me in New York that you thought Mr. Hulburd had no right to allow him to borrow money, and censure Mr. Hulburd for permitting it?—A. I think you must have misunderstood me; my recollection of the conversation is that you said Mr. Hulburd ought to have stopped this thing. I said he knew nothing about it. It occurred to me that you had had a conversation with Mr. Beekman, who has been in the Union Square Bank; because he told me what you said about Mr. Hulburd on that same occasion. I, as proving to you that Mr. Hulburd would not have allowed it, said he must have been too smart to have allowed a bank examiner to go on in that way.

Q. How long had this loan of $75,000 or $80,000 been in the bank?—A. Since the first of October.

Q. Previous to that time he had no loan in the bank?—A. No; that was on some paper there.

Q. Were they permanent or temporary; can you tell whether they were from time to time taken up and renewed, or whether they were taken up at all?—A. No; I do not know whether he ever had any loans; all I know is that he is liable for $117,000.

Q. In what firm was he a partner?—A. None; but was agent of this Portage Lake Canal Company in negotiating loans. This loan of $75,000 occurred, and he took it to the same place, and Stevenson carried it some days. Mr. Hulburd said he must stop that, and he paid up the loan. The Portage Canal Company got frightened. Most of the present indebtedness of Callender originated last October. There are two loans, one of $4,000 and one of $3,000, on Portage Lake bonds.

WASHINGTON, *February* 22, 1872.

J. T. HOWENSTEIN duly sworn and examined.

(The testimony of Mr. Rutter in regard to paying money to Howenstein by himself, was read.)

By the CHAIRMAN, (Mr. HOOPER:)

Question. State your name, residence, and occupation.—Answer. James T. Howenstein; cashier of the Valley National Bank, of Saint Louis.

Q. Did you examine Mr. Rutter's bank in 1866, at Memphis?—A. It was not till the spring of 1867.

Q. Did you receive any money from Rutter out there?—A. No, sir.

Q. Have you any statement to make in regard to what Mr. Rutter said in his evidence just read?—A. I have none, except that it is not true.

By Mr. MONROE:

Q. Did you write such letters as are described in that testimony, demanding money?—A. No, sir.

Q. Did you ever speak to him about officers in Washington who would share any money which you would receive from Mr. Rutter?—A. No, sir.

Q. Can your letters be produced from the secretary of state in Tennessee, written by you to Rutter, demanding money?—A. No, sir; none at all.

Q. What was your position in the Comptroller's Office prior to your going out to examine this bank?—A. I was a fourth-class clerk.

Q. What were your duties there?—A. Examining reports and corresponding.

By Mr. FARWELL:

Q. You say that Rutter never paid you any money?—A. No, sir.

Q. Did you never ask him for any; or ever intimate to him?—A. No, sir.

Q. Neither by writing nor by conversation?—A. No, sir. [The testimony of Rutter in regard to Mr. Howenstein, asking money for his son, was corrected, so as to state that he demanded money for his brother.]

Q. Did you ever ask for a loan of money to set up your brother in business?—A. I will not answer that question positively, because I don't recollect.

Q. Did he ever loan you any money for that purpose?—A. No, sir. My brother came here from California about that time, and I tried to borrow some money to help set him up in business. I would not say yes or no about that; but I know I never got a dollar of money from him for that purpose, or any other. When my brother came on here I may have asked him for some money; I would not say I did or did not.

By Mr. MONROE:

Q. Did you propose to borrow it of his bank?—A. No, sir; his bank was then closed.

Q. Did you consider him a man having money?—A. I did not know.

Q. Have you ever asked him to loan you money, or request him to let you have money in such a way that he might consider it a threat?—A. No, sir; because then his bank was closed.

Q. But was there not something hanging over him?—A. Not that I knew of.

Q. It did not leave him, did it, with a very good reputation when the bank closed up?—A. I cannot answer as to his reputation.

Q. You did examine the bank?—A. Yes, sir.

Q. Did not you understand that its affairs had been badly managed?—A. Yes, sir; I so understood, but I didn't know the truth particularly. My examination was rather a cursory one.

Q. Did you see anything in the papers about it?—A. Yes, sir; but that was replied to.

Q. You thought him to be a suitable person to borrow money of?—A. I thought if he would loan me money I would pay him. I was not fully aware of his situation at the time. I went out simply as a clerk of the office, and having performed my duty, returned to the office.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Mr. Rutter's testimony is that when he found you out there as an examiner, you made demands upon him for money.—A. That is not true, sir.

Q. But you think you did ask him for loans?—A. I am not sure about it. I could not say that I did or did not.

By Mr. MERRIAM:

Q. Would not you be likely to remember if you had?—A. Mr. Rutter was in Washington frequently, and I don't recollect that I ever wrote him, or asked for a loan for my brother. I may have done so. I was in charge of the division of reports at that time, I think.

Q. Did you ever see the report that Mr. Bull made of that bank in August, 1866?—A. I do not know that I ever did. I don't think I ever did.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Did you make application to other parties to borrow money to establish your brother in business?—A. Yes, sir; I wrote to several parties.

Q. Is that the only reason you have for thinking that you may have applied to Mr. Rutter?—A. I wrote to several parties.

By Mr. MONROE:

Q. You were asking wherever you thought there might be a chance?—A. Yes, sir; I had no security to give, and could not go to the bank to borrow.

Q. Do you remember about a letter drawn up by you, a severe letter, to be sent to Mr. Rutter, the president of that bank, about the time that Mr. Bull's report arrived, and which Mr. Hulburd refused to sign?—A. No sir.

[The testimony of Mr. Rutter was then read to the witness, in regard to his payment to Howenstein $2,700, a part of which was said to be for the Government officers in Washington.]

Q. All that part you deny, as I understand?—A. Yes, sir; I deny it.

Q. Do you know Mr. Henry H. Smith? Was he a clerk in your division?—A. Yes, sir.

[A portion of Mr. Smith's testimony was then read to the witness, in regard to the writing of the letter to Mr. Rutter, which Mr. Hulburd refused to sign.]

Q. Do you recollect the circumstances stated there?—A. No, sir.

By Mr. MERRIAM:

Q. Could that have occurred and you have forgotten it?—A. I think not. I think from all the circumstances it could not have occurred, because I always write my own letters, and I had a lady who did all my copying, if any was done. If I wrote a letter that did not suit me, or I had spoiled it, I had a lady copy it.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Mr. Smith was not in the habit of copying your letters?—A. I do not think he ever copied one. I had a lady to do my copying. [A press copy of the letter written to the bank was then presented by Mr. Hulburd.]

By Mr. HULBURD, (the COMPTROLLER:)

Q. Do you know that handwriting?—A. Yes, sir.

Q. By whom was that written?—A. By John Hopley.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Was that written in your division?—A. It belongs to my division.

Q. Was Hopley a clerk in your division?—A. Yes, sir.

Q. What was Mr. Smith's reputation in the office?—A. Mr. Smith I always con-

sidered to be very officious and meddlesome. He caused disagreements between the clerks considerably in the division. He was idle, indisposed to work; would shirk a great deal, and Mr. Hulburd, the Comptroller, will probably recollect my asking that he be transferred to another division of the office.

By Mr. FARWELL:

Q. When did he leave the office?—A. After I did; I do not know exactly when. I left in the spring of 1868.

Q. Do you know the circumstances of his leaving?—A. No, sir.

By Mr. WALDRON:

Q. Do you recollect ever having found Rutter in Mr. Hulburd's office when you went in there with a letter to be signed?—A. No, sir.

Q. Would you be likely to recollect it, if you had?—A. Yes, sir.

By the CHAIRMAN, (Mr. HOOPER:)

Q. Do you remember that report of Bull's?—A. No, sir.

Q. Do you think you never saw it?—A. I don't recollect whether I ever saw it or not. Coming in my division, I probably saw it.

Q. Would all the examiner's reports come to your division?—A. Yes, sir. There were three or four of us who examined the reports. Mr. Hopley, Mr. O'Connell, and myself. We examined the reports, and we wrote about the reports respectively.

Q. Would the fact of Mr. Hopley's writing this letter show that the report went into his hands, and not into yours?—A. Yes, sir; it would show that he examined it.

Q. You would consider that fact evidence that it did not come to you?—A. Yes, sir; that it went to Mr. Hopley. I may have seen it; but if I had examined it the letter probably would have been in my handwriting.

[Mr. Hulburd here explained that these reports are distributed among the clerks, and that whoever examines any one writes the letter.]

By Mr. MERRIAM:

Q. Did not the reports come to you first?—A. Yes, sir; but I could not have examined all the reports. I divided up the work.

Q. Would you not have examined a bank that was in a bad condition?—A. I would if I had known it before; but I did not know this.

WASHINGTON, D. C., *February* 27, 1872.

WILLIAM A. HILL sworn and examined.

By Mr. HOOPER:

Question. Please state your name, residence, and occupation?—Answer. William A. Hill, Memphis, Tennessee.

Q. Your occupation?—A. I am not engaged in anything just now, except attending to the interests of my children.

Q. What was your position in Memphis?—A. I was receiver of the Bank of Tennessee

Q. Where were you before you went there?—A. In Washington City.

Q. What were you doing here?—A. I was a clerk in the office of the Second Auditor.

Q. Will you state the circumstances under which you went to Memphis?—I was introduced to Mr. Rutter, the president of the bank, as a suitable person for cashier.

By Mr. MERRIAM:

Q. By whom?—A. By Mr Hulburd. Mr. Rutter engaged me to go there.

By Mr. HOOPER:

Q. To go as cashier?—A. Yes, sir.

Q. Do you recollect the time?—A. It was in October, 1866.

Q. Were you in the Comptroller's Department then?—A. No, sir.

Q. Did you know anything about the report Mr. Bull made?—A. No, sir, I knew nothing about it at the time. I heard Mr. Rutter speak about it afterward.

Q. Did you ever receive the report?—A. No, sir.

By Mr. MERRIAM:

Q. Were you not informed by Mr. Hulburd, who introduced you to Mr. Rutter, of the condition of the bank at that time?—A. He said there were irregularities; that it required some one to go there in whom Mr. Rutter had confidence; that he (Rutter) had no confidence in the cashier he then had.

By Mr. HOOPER:

Q. What was your salary as cashier?—A. Five thousand dollars.

Q. Suppose you go on and tell us the circumstances of the whole case?—A. I went down in October. I returned once or twice before I took charge of the bank as cashier. I visited New York. I also came to Washington to deposit $50,000 in the Treasury Department as a security to the Government for an increased deposit. The securities were sent back by express.

Q. You were acting for the bank?—A. Yes, sir.

By Mr. MERRIAM:

Q. Immediately after you went there?—A. Immediately after I went there, in October or November.

By Mr. HOOPER:

Q. Do you remember when you commenced as cashier?—A. About the 20th of November.

Q. What was the condition of the bank when you took possession of it?—A. When I went down, and before I took possession, I asked for a committee to examine the bank, and formally turn over the affairs and securities of the bank to me, but no such committee was appointed. I asked for it repeatedly, but did not get it. I then went on under the direction of Mr. Rutter, who was my superior officer, endeavoring to get at the exact condition of the bank as well as I could, by an examination of its accounts-current, &c.

By Mr. MERRIAM:

Q. How long did you continue to be cashier?—A. From that time until March, 1867.

By Mr. HOOPER:

Q. What led to the appointment of a receiver?—A. The bank failed in December, 1866. A very large amount of their cash assets belonged to the State of Tennessee, and they had given for the residue time-obligations.

Q. What was your salary as receiver?—A. Five thousand dollars.

By Mr. MERRIAM:

Q. Did you ever, directly or indirectly, pay any money—any portion of your salary as cashier—to any officer of the Government?—A. I never did.

By Mr. HULBURD, (Comptroller of the Currency:)

Q. Did you ever say that you were obliged to do so?—A. No, sir.

Q. Before you went to Memphis what were your relations to myself?—A. Very limited. I think that the first time I saw you was after I had written a note to Mr. McClellan, calling attention to my recommendations on file in the office, and stating that I was tired of the Second Auditor's Office, and that it would be more congenial to me to be connected with something in harmony with my education.

Q. What had been your business before you came to Washington?—A. A banker.

Q. You spoke of letters on file in the Department, whom were they from?—A. From several gentlemen who knew me—Mr. Drexel, Jay Cooke & Co., Mr. Morehead, Mr. Fanestock, and others.

By Mr. HOOPER:

Q. While you were cashier or receiver were you paid money, or did you ask to be paid money, by Mr. Rutter?—A. No, sir.

Q. Did you write letters to him asking for money?—A. No, sir.

By Mr. COX:

Q. Were you a witness before the committee of the Tennessee legislature?—A. Yes, sir.

Q. Were not some letters of yours shown there?—A. Yes, sir.

Q. Was there any application for money in those letters?—A. No, sir.

Q. What was the purport of those letters?—A. They were on various subjects.

Q. In connection with the bank?—A. Yes, sir. Some of them were inquiries about claims against the bank, asking for information about certain parties; and some of them were friendly letters.

By Mr. MERRIAM:

Q. You say that you were on friendly terms with Rutter. Did you see anything in his character at that time calculated to impair your confidence in him?—A. No, sir; except his want of management—his reckless management.

Q. He was a man in whose integrity you had confidence?—A. He was.

[Mr. Hooper then read from Rutter's testimony, in which Rutter charged that Hill had black-mailed him, &c., which Hill pronounced to be untrue.]

By Mr. Cox:

Q. Did Rutter ever pay you money for any purpose at any time?—A. Before I entered upon my duties as cashier, I transacted some business for the bank for which he paid me.

Q. What kind of business?—A. It was in connection with getting the securities that were out of the control of the bank back again under its control; they had been hypothecated in two or three banks in New York.

Q. How much did he pay you for that service?—A. Five thousand dollars.

Q. Was there any other money paid you for any other service?—A. No, sir.

Q. Was the $5,000 paid you in one sum?—A. Yes, sir.

Q. No other sum except the $5,000?—A. Yes, sir; he paid me $5,000, and afterward took it from me, after a ——

Q. How long before you were cashier?—A. It was between October and November.

Q. What did you do; travel?—A. Yes, sir; from Memphis to New York.

Q. How much time did you spend in obtaining those securities and in placing them in the bank?—A. About thirty days?

Q. What was their amount?—A. About $550,000. They were under the control of a Mr. Hudson, in New York.

By Mr. HULBURD:

Q. You recovered those securities for the bank? A. Yes, sir; I put them into it.

By Mr. MERRIAM:

Q. In whose employ were you at the time except Rutter's?—A. In that of the bank.

Q. Were you in the bank or in the Comptroller's Office?—A. I was never in the Comptroller's Office.

Q. Was it after you left the Treasury?—A. Yes, sir.

Q. Before you accepted the position of cashier?—A. Yes, sir.

By Mr. Cox:

Q. You had no connections with the Government at all?—A. No, sir.

By Mr. MERRIAM:

Q. Then you really received $5,000 for this work?—A. Yes, sir.

By Mr. Cox:

Q. Did Mr. Rutter assist you in that business?—A. Yes, he was with me in New York.

Q. Did it require any litigation, &c.?—A. No, sir.

Q. What did you have to do; call on the banks?—A. Yes, sir.

Q. Did you have any difficulty in obtaining them?—A. In one instance we had a good deal of difficulty in effecting an arrangement, but by the assistance of the vice-president of the Bank of the Metropolis, who was in New York at the time, we succeeded.

By Mr. HULBURD:

Q. Did you feel, at any time after your arrangements with Mr. Rutter, that you were under my control or influence, or that you were under any obligation whatever to me other than what any other cashier might be?—A. No, sir.

Q. You stated that you were designated as a suitable man for cashier; what do you mean by that?—A. I mean that I was designated as a suitable person, because I had been familiar with banking; that was all. My testimonials were nearly all from bankers.

Q. Were you ever asked to do anything while you were cashier or receiver that was not, in your estimation, what it ought to be?—A. No, sir.

By Mr. Cox:

Q. You have heard the statement that Rutter made here; please say how much truth there is in that statement, if any.—A. That portion of it wherein he states that he gave me money while I was receiver, or an agent of the Government, is untrue.

By Mr. HOOPER:

Q. Before you were cashier?—A. Before I took my position as cashier.

By Mr. Cox:

Q. Were those letters of which he speaks, or any portion of them, written to Mr. Rutter after you were cashier or receiver?—A. I suppose some of them were written while I was receiver.

Q. Or before?—A. No, sir. I did not know him before October, 1866.

By Mr. HOOPER:

Q. Before you made the arrangement?—A. Yes, sir.

[Mr. Hooper read from Rutter's testimony in relation to having paid Hill money while he was receiver. Hill, in reply to the question by Mr. Hooper, "What do you say to that statement?" answered that "it was untrue; that he never thought of such a thing; it was new to him entirely."]

WASHINGTON, D. C., *March* 12, 1872.

Hon. ZACHARIAH CHANDLER, United States Senate, examined.

By the CHAIRMAN:

Question. Senator, are you acquainted with Henry H. Smith, clerk to the Committee on Claims of the House of Representatives?—A. I know all about him. He was formerly connected with the Kalamazoo Telegraph.

Q. Will you give us your opinion as to the degree of credence that should be placed in what he might say?—A. He is not to be believed under any circumstances. He has, or he ought to have, my letter dated, I think, six months ago, in which I told him that I would not believe him under oath.

By Mr. RANDALL:

Q. How did such a man come to be appointed clerk to a committee of the House?—A. I do not know.

By Mr. MERRIAM:

Q. Had this business any reference to politics?—A. No, sir. I have his letter here offering to swear that certain statements were true which I knew to be false. I should not know Smith if I were to meet him, although I have, I suppose, seen him a hundred times.

Q. What is his reputation?—A. I do not know anything about his reputation.

WASHINGTON, D. C., *March* 14, 1872.

H. H. SMITH, recalled. [Mr. Smith was recalled at his own request, for the purpose of making a personal explanation.]

He said: I wish to make a statement as to the facts connected with my leaving the Treasury Department. I did not resign in June, 1870, but took a leave of absence. I was not, as has been stated, an assistant marshal, but marshal for the State of Michigan to collect the social statistics for the Census, and I returned and resumed my work here, and resigned in October, 1870.

[A portion of the testimony of Mr. Howenstein was then read by the chairman, for the information of the witness as to what Mr. Howenstein had said of him as a clerk.]

Mr. Smith, (resuming:) The date of the letter written by Hopley, as I understand, is September, 1866; and I propose to show, by an official letter, a copy of which I have, that Mr. Hopley resigned in 1864. [The following is a copy of the letter:]

"TREASURY DEPARTMENT, *October* 5, 1864.

"SIR: Your letter of the 3d instant, tendering your resignation as a clerk in the office of the Comptroller of the Treasury, to take effect from the 7th instant, has been received, and the same is accepted accordingly.

"I am, very respectfully,

"W. P. FESSENDEN,
"*Secretary of the Treasury.*

"JOHN HOPLEY, Esq.

"A true copy:

"H. S. VANDERBILT,
"*Chief of Appointment Division.*"

That terminated Mr. Hopley's connection with the Treasury, and of course he did not write any such letter in 1866.

Another thing—Mr. Hopley was never in that division as an examiner of reports. The division was not organized at that time. It was first organized by Mr. Callender,

under the incumbency of Mr. Clarke, as Comptroller. Further than that, I can establish it by the clerks of the division.

[Witness here gave way to allow Hon. Freeman Clarke to make a statement in reference to the character of Mr. Smith.]

Mr. Clarke said: I consider Mr. Smith's character for veracity and integrity good in all respects. He was in the office a year or more when I was there; and I knew him before he came to Washington, when he lived in Rochester. I have known him from a boy, till he came here. He was appointed a clerk by myself in my office, and he continued in the office till he resigned. He was appointed to do important work—that of the destruction of mutilated notes. In reference to that, I say in general terms, I was entirely satisfied with Mr. Smith in every position that he held, while I was there. His duties were responsible, requiring integrity and efficiency, as much so and more than most of those of the clerks there.

By the CHAIRMAN:

Question. Do you remember Mr. Howenstein?—Answer. Yes, sir.

Q. What was his character?—A. So far as I know, it was good. I do not know that I ever heard anything against him.

[Examination of Mr. Smith resumed.]

Mr. SMITH. I have a letter, written at the time when the subject was fresh in the memory of Mr. Clarke. I had made a move in the direction of an appointment as supervisor of internal revenue, and wrote to Mr. Clarke, stating my idea, and asking a letter which I could use, and he sent me this from Rochester. He had already written me a letter of the same date, in Washington, and I forwarded to him some Department paper, on which he wrote the letter, of which the following is a copy:

"TREASURY DEPARTMENT,
"OFFICE OF COMPTROLLER OF THE CURRENCY,
"*Washington, July* 23, 1866.

"*To whom it may concern:*

"Mr. H. H. Smith has been employed as a clerk in this office for a year or more, and I take pleasure in saying that he has faithfully and satisfactorily discharged the duties of the position to which he has been assigned; and I consider him a young man of more than ordinary intelligence and ability, and unimpeachable as to character and habits.

"F. CLARKE,
"*Comptroller.*"

Further than that, I would like to say that I was employed in the Ordnance Office as clerk for a time. The acting chief of that office, on the 3d of March, 1865, addressed me a note, which I wish to present. They proposed to discharge all the clerks not required, and I, having come in later than others, went out under the rule.

A copy of the letter follows:

"ORDNANCE OFFICE, WAR DEPARTMENT,
"*Washington, March* 3, 1865.

"MY DEAR SIR: I regret very much that it should have been your fate to be dropped from this office, but as work had become so much reduced that sufficient employment could not be found for all the force employed, the good of the public service made it necessary that a reduction should be made. In making the reduction, those were selected who were on branches where their services could most conveniently be spared; and in your case I know it was not owing to any fault found at the manner in which you have performed your duties. On this point it affords me pleasure to state that your abilities as a clerk are far above mediocrity, and that you are competent for far more important duties than those you had to perform in this office. I cheerfully recommend you to any public officer who desires to secure the services of a clerk who is competent as an examiner and correspondent, and at the same time a very fair penman.

"Hoping you will not be long out of employment, I remain, respectfully, yours,
"J. P. KELLER,
"*Principal Clerk, Ordnance Office.*

"H. H. SMITH, Esq.,
"*Washington City.*"

Mr. SMITH. In regard to the statement made by Mr. Howenstein as to the examination of reports, it was the reports of the banks that were assigned to the clerks, and not the reports of the examiners. These were all examined by Howenstein himself. I can bring other gentlemen who know particularly as to that fact. When Mr. Barton came into the division, I instructed him in the routine work. It was not the examiners' reports that were distributed among these gentlemen, but the regular reports of the

banks. In regard to the letters written by himself, I can establish that by half a dozen clerks, especially by Mr. Cherry, who was in the habit of constantly copying, being a very good copyist, and Howenstein frequently employed Mr. Cherry to copy his letters for him.

By the CHAIRMAN:

Q. If Hopley had been in the office in 1866, would you have known it?—A. O, yes, sir.

Q. And do you swear that he was not in the office?—A. No, sir. He was not employed as a clerk in the division of reports. He was about there, and sometimes in the Comptroller's room.

By Mr. HULBURD:

Q. Do you swear that Mr. Hopley was not a clerk in 1863?—A. He was not, according to my remembrance.

By the CHAIRMAN:

Q. If he was there in 1866, his having resigned in 1864 would have no bearing upon the case?—A. That terminated his connection with the Department, and the records show no appointment since that date. He was about there more or less.

Q. If you saw that letter, written in September, 1866, and knew it was in Hopley's handwriting, would you believe he wrote it?—A. The fact that it was in his handwriting now would be no evidence that he wrote it then. If there was a press copy taken, which can be shown in its proper order in the press copy-book, that would be evidence. If I should see it there, I should admit that he wrote it. Hopley was writing letters in the different rooms, but nothing of an official character.

By the CHAIRMAN:

Q. I want to know who furnished the Tribune a copy of Mr. Bull's report?—A. I do not know.

Q. Do you say on your oath that you had nothing to do with the preparation or furnishing of the material for this article in the Tribune?—A. I do not say that I did not.

By Mr. RANDALL:

Q. Have you any knowledge of who left the original report at my house, or what purports to be the original report?—A. No, sir.

WASHINGTON, D. C., *March* 14, 1872.

JOHN BULL recalled.

By Mr. RANDALL:

Question. What is the manner of disposing of the circulation of broken banks?—Answer. I believe the Treasury of the United States redeems such notes as come into its possession.

Q. Is the circulation reduced to that amount, or is there a re-issue?—A. When the circulation is returned to the Comptroller and destroyed, I believe it has been the practice to re-issue the circulation to other banks.

Q. How is the distribution made?—A. I do not know that I can answer that question. I think it is made by the Comptroller of the Currency; but on what principles or rules I do not know. I am not sure that he does it.

Q. How is it that these notes command a premium?—A. There has been a time when the notes of broken banks sold at a premium, the purchasing bank having the consent of the Comptroller, upon surrendering the notes of a broken bank, to receive in lieu of them notes for their own bank. On what rules or principles I do not know.

Q. Who gets the premium?—A. The selling bank, or the holders of the broken bank notes, whoever they may be. John Thompson has sold a large amount of broken bank notes in that way.

Q. Has any favoritism been shown in this matter by the Comptroller of the Currency in reference to granting charters, that you know of?—A. I do not know of any.

Q. Have you any knowledge on the subject of the presentation of a carriage to the Comptroller, Mr. Hulburd, by Mr. Rutter?—A. I have no knowledge of the presentation of a carriage at all.

By Mr. MERRIAM:

Q. Have you any knowledge of the date when the information in regard to the Tennessee bank was given to the Comptroller?—A. I wrote a letter on the 12th of August, 1866, to the Comptroller, informing him that I had reason to believe that bank was in bad condition.

Q. Did you receive any reply?—A. I received a reply.
Q. Have you a copy of the letter?—A. I have not; I have the letter itself.
Q. You may produce it.
[The letter was produced. A copy follows.]

"TREASURY DEPARTMENT, OFFICE OF COMPTROLLER OF THE CURRENCY,
"*Washington, August* 14, 1864.

"DEAR SIR: Your letter of the 12th instant is received. I have received intimations of a similar purport before; and do not believe them entirely unfounded. I am also in receipt of a communication making charges against the National Bank of Vicksburgh, and I desire to have the condition and character of both institutions thoroughly tested. For that purpose I would be glad to have you report here at once, prepared to visit the points in question.

"Very respectfully, yours,

"H. R. HULBURD,
"*Deputy and Acting Comptroller.*

"JOHN BULL, Esq.,
"*Metropolitan Hotel, New York City.*"

By Mr. DOX:

Q. This letter was written in answer to one written by you, advising him of your suspicions in regard to the Tennessee National Bank at Memphis?—A. It was.
Q. Did you come to Washington in response to this letter?—A. I did.
Q. Did you see the Comptroller?—A. I did.
Q. Did you have any conversation with him on the subject of the condition of that bank?—A. My recollection is that I did have some conversation with him.
Q. Do you recollect the purport of that conversation, so far as it related to his views of the condition of the bank?—A. No, sir; I do not know that he expressed himself decidedly in regard to it. He corroborated what was said in the letter. I had this interview with the Comptroller on the 18th of August.

By Mr. MONROE:

Q. Then you went immediately to Memphis?—A. My report is dated on the 24th of August. I started from here on the 20th or 21st.

By Mr. MERRIAM:

Q. Is what purported to be your report to the Comptroller, as published in the New York Tribune, correct?—A. It is entirely a subject of memory with me. It seems to me like the report.
Q. Is it correct in its main statements?—A. I think it is.
Q. Have you any knowledge how that came in the Tribune?—A. No knowledge whatever.
Q. You had no connection with its publication?—A. None whatever.
Q. Have you or have you ever had any knowledge in regard to commissions being paid by any bank which sought to get a charter?—A. Never. I have known parties outside of the Department get some compensation for getting charters—persons who were acting as claim agents and brokers here. I recollect Judge Embrey told me he got a charter, and had a compensation for it. I mean he got the papers, and got them in proper shape.

By Mr. RANDALL:

Q. Did you ever know of the employment of a Mr. Hussey in that connection?—A. No, sir.

By Mr. SMITH:

Q. Did Judge Embrey state what bank it was?—A. Some bank in Kentucky.
Q. Did he tell you what commission he received?—A. No, sir. General Jeffries once told me he got a bank charter. I cannot say he stated that he had a commission. I think I had a conversation with him about the amount generally charged for getting a bank charter; getting the papers and attending to the business with the Department in Washington. I think he said he got $250 for getting the charter of a bank with $100,000 capital. I made the inquiry, because I supposed I had obtained a charter, and I wanted to know what charge to make. But they did not succeed in getting the bank organized.

By Mr. RANDALL:

Q. Do you know anything about a transfer of $200,000 from the First National Bank of Washington to the Merchants' Bank of Washington?—A. I should be obliged to consider pretty closely to state what I knew and what I had heard, and to distinguish

between them. I examined the bank at the time of its failure, and I remember there was a great deal of excitement about the transfer of the funds to the Merchants' Bank. How much of my present impressions was derived from my own knowledge at the time, I cannot tell without referring to books and papers.

Q. Do you know upon whose recommendation that transfer was made?—A. I do not know.

By Mr. DOX:

Q. You have had some practical experience as an examiner of banks that have been recognized as in a failing condition. How soon is the shortest time, after the report of the examiner has been made, that you know of a receiver having been appointed?—A. I do not know the circumstances attending the appointment of a receiver, except in one instance. That was the case of the Merchants' Bank at Washington. In that instance the notes were presented for redemption on the morning of the day I examined the bank. They were not redeemed, and then the Comptroller of the Currency, Mr. Clarke, immediately appointed a receiver. He came down to the bank forthwith, and after I had completed the examination I turned over the assets of the bank to him. He was present that very day.

By Mr. SMITH:

Q. How did you first obtain your impression of the condition of the bank at Memphis, that you first communicated to the Comptroller?—A. I was sitting in the reading-room of the hotel, where I lodged, on the evening of the 12th of August, 1866, and some gentlemen were conversing in so loud a voice that I could not avoid hearing them, about the bank. One of them struck me as a judicious man, who said the bank was thoroughly rotten. After his friend was gone, I took the liberty of asking him further about the bank. He assured me of his means of knowing about the bank, and I addressed a note to the Comptroller, stating that I had information in regard to this bank which led me to believe there should be an examination of it.

Q. Did you state to the Comptroller how you had obtained the information?—A. I think I did not, distinctly. I simply stated that I had received information that seemed to me reliable, which indicated a bad condition of things.

Q. How long had you been engaged in the examination of the bank before you sent the report?—A. I commenced the examination on the 24th of August, and continued it during the following days till the 27th, when I went to examine another bank in Memphis; and on the evening of the 28th I wrote the report and mailed it in Memphis.

Q. Why did you date it on the 24th?—A. I always dated a bank report on the day I commenced the examination.

Q. Did the Comptroller give you any written instructions?—A. He did not. He gave me the letter of appointment and authority.

[The letter was produced and read.]

By Mr. SMITH:

Q. What was the tenor of the directions given you in regard to the manner and purpose of the examination of the bank?—A. I do not remember that he said anything more than that I was to make a thorough examination.

Q. Did he communicate to you any information that he had received from other sources?—A. I do not think he did, with reference to that bank.

Q. Did he say anything as to his impressions in regard to the condition of the bank?—A. I do not remember that he did; but I think he stated he had received some information about the bank.

Q. Did you get the impression, or did he say to you, that he thought the bank was in a bad condition, and needed attention?—A. My impression is that he did make some such remark corroborating the statement of the letter.

By the CHAIRMAN:

In this article in the Tribune, to which reference has just been made, it is said that "Mr. Rutter hurried to Washington after the report, and prevailed upon the Comptroller to take no action against the bank, alleging that the bad condition was owing to the bad management of the cashier," &c. Do you remember any such fact? Have you ever made such a statement to the committee?—A. No, sir; I never made any such statement to anybody.

Q. It goes on further to say that "Mr. Hulburd asked Mr. Bull as to the propriety of his receiving $500 from Rutter for the service of selecting a cashier for the latter."—A. I do not think that is correct; I do not think that when Mr. Hulburd spoke of the $500, as offered by Mr. Rutter, anything was said about a cashier.

Q. And that he also stated "that a personal friend of Hulburd was chosen as such cashier."—A. I never so stated; I never saw Mr. Hill, who was afterward appointed.

By Mr. Dox:

Q. Is that report correct, that he asked you as to the propriety?—A. No, sir; I am not sure that he even did more than state the fact that Mr. Rutter had offered him $500; or rather that he asked what I would think of a man who would make such an offer. It is my impression that he made some such inquiry as that.

By the CHAIRMAN:

Q. At any rate, you deny the correctness of this whole statement in this article?—A. I deny what I have denied; the whole thing I do not deny the correctness of.

Q. I mean this: that you stated to the committee that Rutter hurried to Washington, &c.?—A. I never stated that to the committee. Mr. Rutter was not in Memphis when I made the examination; he was absent, and, I was told, at the North. I do not know that he came to Washington until I came here, on or about the 10th of September; when I called on Mr. Hulburd, informed that Rutter had been here.

By Mr. RANDALL:

Q. Do you know how long Mr. Hill continued as receiver in this Memphis bank?—A. I have no idea.

Q. Have you no knowledge how we can get that information?—A. I suppose it is obtainable from the office of the Comptroller of the Currency.

Q. Do you know what compensation he got?—A. I have no idea.

Q. Do you know when the State of Tennessee, through its authorities, took possession of the bank assets?—A. I do not.

[A portion of the testimony of the witness, as previously taken in the committee, was then read, and stated by him to be correct.]

The following is the article referred to in the foregoing testimony:

COMPTROLLER HULBURD.

TESTIMONY BEFORE THE BANKING AND CURRENCY COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

[*From an occasional correspondent of the Tribune.*]

WASHINGTON, *February* 28.

You have already learned through your regular correspondent that the testimony in the case of Comptroller Hulburd, elicited before the Banking and Currency Committee of the House, has developed some very suspicious facts, and that the charges against Mr. Hulburd have taken a serious shape. Within a few days still more damaging accusations have come to light. It is now asserted that the Comptroller unlawfully suppressed and failed to take action on the official report of Mr. John Bull, a national bank examiner, showing a condition of the Tennessee National Bank of Memphis, requiring the appointment of a receiver and the winding up of the institution; and that the Comptroller was influenced in this action by money paid to him by George R. Rutter, the president of the bank. The following is a copy of the report alluded to, omitting some unimportant parts, together with the tabular statement of resources and liabilities and the more minute details given in the appendix and accompanying papers. The report is dated August 24, 1866.

Examiner's report of the Tennessee National Bank of Memphis, located at Memphis, in the County of Shelby, State of Tennessee, August 24, 1866. *George R. Rutter, president; Walter S. Morgan, cashier.*

* * * * * * *

RECORDS.—Incomplete and imperfect. Election proceedings not recorded.

DIRECTORS.—It is very doubtful whether any of the persons now acting as directors are legally such. This subject will be explained hereafter.

DIVIDENDS AND SURPLUS.—The only dividend declared was on the 3d of April last, and purported to be for 15 per cent. No portion of the net earnings was carried to the surplus fund account as required by section 33.

LOANS AND DISCOUNTS.—The stock notes held by the bank amount to $55,300.

LAWFUL MONEY RESERVE.—The lawful money reserved made necessary by the condition of the bank on the day of examination was..... $115,697 29

Amount in bank.....	$93,527 17	
Amount with redeeming agent	887 54	
		94,414 71
Showing a deficiency of reserve of.....		21,282 58

GENERAL REMARKS.— * * * * * The foregoing statement of the condition of the bank is as the same appears on the books of the bank. I submit it because it is impossible for me to make a correct one, which would balance. This, however, is erroneous in many important particulars. I shall proceed to point out wherein it is incorrect, and to make such explanations as are required.

ITEMS 1 AND 3 OF RESOURCES.—My examination makes the "loans and discounts," and the "suspended debt," to fall short of the amounts given in the statement by the sum of $2,091 84. Two days' search has not enabled them to discover the error, if it be an error.

ITEM 5 OF RESOURCES—"Overdrafts."—The two principal items of overdraft are one of J. W. Morrison, for $8,199 11, and the other of John G. Owen, for $18,043 70. Both of these are said to be secured by bills of lading on cotton, shipped to Philadelphia, which bills of lading are in possession of Mr. Rutter, the president of the bank, who is absent at the North. Hereafter, a full statement of the assets of the bank, which Mr. Rutter has taken away with him, will be given, to which attention is particularly invited. A full list of the overdrafts is inclosed herewith, marked "Appendix B."

ITEM 7 OF RESOURCES—"Due from other national banks."—This item is principally composed of an indebtedness from the National Bank of the Metropolis, Washington, D. C., amounting to $618,250. It will be observed that this is precisely the amount received by the Tennessee National Bank, on deposit, from the State of Tennessee. It was, in fact, the identical money and securities received by the Tennessee National Bank from the State of Tennessee as a deposit, and almost immediately thereafter, to wit, on the 26th of June, 1866, loaned to the National Bank of the Metropolis of Washington, D. C., without security. It will also be observed that the National Bank of the Metropolis has an account on both sides of the foregoing statement, as it has two accounts on the books of the Tennessee National Bank. By the first of these accounts (which is called "special") there appears to be due from the National Bank of the Metropolis the sum of $618,250, as above stated, and by the other there appears to be due to the National Bank of the Metropolis the sum of $391,-022 44. Deducting the balance of the latter account from the balance of the former, it leaves the sum of $227,227 50 due from the National Bank of the Metropolis to the Tennessee National Bank. As a matter of course, this makes the solvency of the latter bank to depend upon the ability of the former to pay this debt, and shows the necessity of an early re-examination of it.

ITEM 10 OF RESOURCES—"United States bonds and securities on hand."—All of the securities composing this item that I have been able to find are as follows, viz:

7 3-10 Treasury notes	$50,650
5-20 bonds	1,800
Stock of the National Insurance Company of Memphis	10,000
Note of the Memphis and Ohio Railroad Company, due September 7, 1866	1,000
Note of the Mississippi and Tennessee Railroad Company, due August 12, 1866	1,000
Total	64,450

This leaves a deficiency in this item of $10,000, which the cashier explains as follows, viz: $500 of the stock of the Memphis Post, (a newspaper,) the certificate for which is in possession of Mr. Rutter; $10,000 in some other security, (the cashier does not know what,) also in the possession of Mr. Rutter.

Of the securities above named, the item of $10,000 stock of the National Insurance Company is of very doubtful value. The company is owned and managed by two young men, named Campbell and Cary, who paid $1,500 for an old charter, under which they are now operating. No money is known to have been paid in on their stock, except the sum of $10,000, by Mr. Rutter, for which this stock is held as security. The Tennessee National Bank even owns the safe which the Insurance Company has in use.

ITEM 15 OF RESOURCES—"Cash items and revenue stamps."—At least one-half of this item would properly appear under "suspended debt." It consists of sundry overdue checks and notes, and among which is the president's memorandum check for $5,000, given for stock, as hereinafter stated. Not more than $25,000 are current checks and drafts, which, with petty expense account, constitute legitimate "cash items."

ITEM 2 OF LIABILITIES—"Circulating notes on hand."—The amount of circulating notes on hand, as shown by the foregoing statement, is $27,335, while the amount actually found in the bank is $2,250 only. The difference is $25,085. The cashier represents that these notes were signed by him, and taken away by Mr. Rutter on his journey North, as he alleged, for convenience, to be signed while absent. Mr. Rutter has, however, once returned to Memphis since the notes were taken away, and no part of them has ever been returned. I leave the Comptroller of the Currency to judge of the propriety of the long absence of these notes from the bank under the cirumstances.

ITEM 1 OF LIABILITIES—"Capital."—I invite attention to the inclosed tabular statement, marked "Appendix A," relative to the capital stock and the payments and divi-

dends thereon. By this statement it will appear that the total amount of money paid toward the capital is $40,700
Stock notes are held by the bank, a part of which are maturing after having been renewed, and a part are overdue, amounting to 55,300

Making a total of 96,000

or $4,000 less than the nominal capital of the bank.

I have seen two or three of the largest of these nominal stockholders, who have given their notes, and am assured by them that they are unable, and never expected to pay those notes; that they were given at the request of Mr. Rutter, between whom and themselves a private agreement exists that he (Rutter) will give up their notes and take the stock to himself whenever they shall request him to do so.

It will be noticed that many of the small notes are overdue; also, that dividends have been paid on that part of the stock only for which cash has been paid. It is apparent to me that a large part of the notes given for stock are valueless, and known to be so, and so considered by all parties connected with the bank.

ITEM 3 OF LIABILITIES.—"State of Tennessee."—This deposit, amounting to $618,250, was obtained in June last, and at that time the expense account of the bank is charged with about $7,000 for expenses incurred in Nashville. To secure the State, a penal bond was given in the sum of $200,000. As before stated, the whole deposit was at once transferred to the National Bank of the Metropolis, Washington. I forbear making any comments.

The following is a list of the assets of the bank in the possession of Mr. Rutter, the president, who is absent, journeying, it is said, for pleasure with his family:

Bills of lading on cotton in Philadelphia:

J. W. Morrison's	$8,199 11
John G. Owen's	18,043 70
Certificate of stock in the Memphis Post	500 00
Other security not known to the cashier	10,000 00
Circulating notes of the bank	25,085 00
To this should be added Mr. Rutter's liability to the bank, as follows, viz:	
Memorandum stock, check for	5,000 00
Stock note for	2,800 00
Total	68,527 81

Mr. Rutter is said to be in New York, and may be heard of at the Croton National Bank.

In view of the facts developed by this examination, I am compelled to recommend a further withdrawal of United States deposits to the amount of about $20,000, after which the securities in possession of the Treasurer will be ample, and, also, that instructions be sent to the revenue and other officers at this point to make their future deposits in some other depository.

* * * * * * *

JOHN BULL,
Examiner.

The COMPTROLLER OF THE CURRENCY,
Washington, D. C.

The National Bank of the Metropolis, of Washington, to which the Tennessee school fund of $618,250 was so promptly transferred without security, was, at the time of such transfer, rapidly approaching insolvency. It was shortly afterward placed in the hands of a receiver. The loss of this money occasioned an investigation by a committee of the Tennessee legislature, by which it was developed that the State auditor and treasurer had been bribed by Rutter or his agents, in order to obtain the deposit. It also appeared that certain Congressmen were implicated, which, to some, may explain why the fraud was not pursued further.

Among the witnesses who have testified before the Banking and Currency Committee are Examiner Bull, George R. Rutter, formerly president of the bank, James F. Howenstein, and a gentleman who is now clerk to one of the House committees, but who was, at the time Mr. Bull's report was submitted, a clerk in the Currency Bureau. Mr. Bull's testimony fully sustained the charges. He stated that Rutter hurried to Washington after the report, and prevailed upon the Comptroller to take no action against the bank, alleging that its irregular condition was owing to the bad management of its cashier; that Hulburd asked him (Bull) as to the propriety of receiving $500 from Rutter for the service of selecting a cashier for the latter; and that a personal friend

of Hulburd was chosen as such cashier, who, ten months afterward, was appointed receiver of the bank. It will be shown before the investigation is concluded that Mr. Bull, one of the most efficient bank examiners of the Bureau, was removed by Hulburd through the influence of Callender, the late New York examiner. Rutter testified that he had paid $500 to Hulburd, and about $2,300 to James T. Howenstein, who at that time was chief clerk of the division of reports under Hulburd, and whose lips it was necessary to seal. The testimony of the witness referred to as at present clerk of a House committee fully corroborated that of Bull, and, in some respects, that of Rutter. It appears that Rutter told him that he had "fixed up his matter," and his bank would not be put into the hands of a receiver.

Mr. Hulburd's first term of office under the law expired on the 6th instant, and his nomination was on that day sent to the Senate and confirmed. There is something in relation to this matter worthy of notice. It is safe to assume that the Secretary of the Treasury, whose integrity no one questions, would have hesitated about making the reappointment of Hulburd had he known of the investigation going on before the Committee on Banking and Currency. Why was he not informed? Four, if not five, of the members of the committee supposed that he was so informed; and the nomination of Hulburd, followed by his speedy confirmation, was as much a surprise to them as it was to the banking interest of the country.

Other evidence, showing that Rutter was compelled to give Hulburd an expensive double carriage and harness, and that he (Hulburd) received other presents for his official acts, has been adduced. And the fact that Hulburd allowed, in the account of the receiver of the Union Square National Bank, the item of "$3,700, expense of trip to Washington"—even in these days of expensive traveling, quite a remarkable item—which has been developed by the examination, will be received with still greater surprise.

WASHINGTON, D. C., *March* 14, 1872.

WILLIAM H. BARTON duly sworn and examined.

By the CHAIRMAN, (Mr. HOOPER:)

Question. State your name, residence, and occupation.—Answer. William H. Barton; I reside in Washington; am law clerk to the Solicitor of the Treasury, in the Department of Justice.

By Mr. MERRIAM:

Q. What do you know about Mr. H. H. Smith's character, the present clerk of the Committee of Claims of the House?—A. In March or April, 1868, I was appointed a clerk in the office of the Comptroller of the Currency, in the Treasury Department, and was there first made acquainted with Mr. Smith, who was a clerk in the same division. I was associated with him from that time till June, 1869, when I was transferred to the office of the Solicitor of the Treasury. I was intimately associated with him as a clerk; was employed on very much the same kind of work. So far as I could speak, especially as to his character, I should say that I believe him to be a man of a good character. I never heard anything against his character.

Q. Do you believe him to be a man of veracity?—A. Yes, sir; I never heard his veracity impugned by any one.

Q. Do you know anything in connection with the subject-matter of this investigation further than that with reference to Mr. Smith?—A. No, sir; as I understand the subject of the investigation, I have no knowledge of it.

Q. Have you any knowledge of any commission being paid on the sale of currency?—A. The only knowledge I ever had of anything of that kind was in the case of a person who was employed in the office, who said to me he had been employed in that way; and he was soon after discharged by the Comptroller of the Currency on that account. The statement he made to me was, that there was money to be made in the negotiation of broken-bank bills; that is, bills of suspended national banks. His name is Perkins, I believe.

Q. You simply said that Mr. Smith, as far as you have ever heard or known of him, is a reliable man, and you would believe him under oath?—A. Yes, sir; he is a reliable man, and had that reputation with his superiors, and also of being a very efficient clerk; at least he was assigned to work that required the highest talent except that of the chief of the division. When he left the office his health was poor, and he desired to get some business in the State of Michigan, where he had resided; and he was appointed an assistant marshal there, I believe; and for that reason he either resigned or took a leave of absence, I am not sure which, for the purpose of entering on the duties of assistant marshal in the State of Michigan, to be employed in taking the last census. We were in the division of the examiner of reports, and Mr. Smith was assigned to one of the most important desks in that division except that of the man who had the immediate charge of the division.

WASHINGTON, D. C., *March* 15, 1872.

Hon. AUSTIN BLAIR, Representative from Michigan, appeared before the committee and stated that he knew the witness, H. H. Smith, very well, and had known him for ten years. He was clerk to his (Mr. Blair's) committee, the Committee of Claims. His character was very good.

By Mr. DOX:

Question. Is he a man of truth?—Answer. Yes, sir; I should trust him unreservedly in that respect.

Q. You have had opportunities of testing his character?—A. Yes, sir; I have known him intimately for ten years. He has been in the habit of visiting at my house freely all the time. I know him as well as I do anybody.

By Mr. MERRIAM:

Q. It has been stated here that he was a busy-body, and unreliable as a witness.—A. I do not consider that to be so. I certainly have never known him to be so, and my opportunities for knowing him have been very good indeed.

WASHINGTON, D. C., *March* 15, 1872.

H. H. SMITH recalled, and examination continued.

By the CHAIRMAN:

Question. You stated yesterday that if Mr. Hopley had been in the office in 1866 you would have known it.—Answer. No; I do not think I said that. I said that if he had been a clerk in the division of reports I should have known it.

Q. I asked you yesterday, in reference to the letter which we had here, as a copy of the reply of the Comptroller, dated September 15, 1866, in regard to Mr. Bull's report, whether, if you saw the letter written in September, and knew it to be in Hopley's handwriting, you would believe he wrote it?—A. It would be a fair conclusion that he did.

Q. If he had written it, then somebody else could not have written the letter based on that report?—A. I presume not, though somebody else may have duplicated it, or written substantially the same letter. It often happens that, after a letter is written, it is completely changed by the Comptroller.

Q. You said yesterday that if there had been a press-copy taken, which could be shown in its proper order in the press-copy book, in Mr. Hopley's handwriting, that would satisfy you that Mr. Hopley had written the letter?—A. Certainly, sir. I cannot swear, however, to Hopley's handwriting. I had but a slight acquaintance with him. He was a clerk in the Bureau before I was appointed. He resigned in 1864, and was afterward back there; but I understood he was not employed as clerk. He was not a clerk in the division of reports.

Q. Was he employed there?—A. I do not know as to that. I stated that he was about the Comptroller's room, and was doing some work. He did, perhaps, some work for Mr. Clarke, in Mr. Clarke's room.

Q. Mr. Clarke had left the office in 1866?—A. This was in 1865, before Mr. Clarke left.

The CHAIRMAN. We are speaking of 1866.

The WITNESS. Mr. Hopley did, I believe, some work in Mr. Clarke's room before Mr. Clarke's resignation.

Q. My question is, whether, in 1866, he was employed in the room in which you worked?—A. No, sir; he was not, to my knowledge.

Q. Here is the letter-book, and here is a press-copy of the original letter, [exhibiting them to witness,] and here is the record of it in its proper sequence in the letter-book, with Mr. Hopley's name in the margin; does that mean that Mr. Hopley wrote the letter?—A. Yes; the initials of the writer are usually entered. I have nothing more to add to the statement I then made, that Mr. Howenstein wrote the letter, and I can state why my recollection is clear on that point. I speak of the letter which I copied. This letter here, in the letter-book, is not the letter at all. Mr. Howenstein went out of the room with my copy of the letter in his hand. I took the original and laid it in my drawer, as I did with a good deal of his important letters. I laid them aside for the time being in order to look them over afterward. I was trying to familiarize myself with the general principles that governed in the examination of banks. And I did so with this letter. The copy that I wrote Mr. Howenstein took into Mr. Hulburd's room. He came back ten or fifteen minutes afterward with the letter in his hand, and apparently angry. He threw it down, and took his hat and went out. He came back soon and tore the letter in two, and threw it on the floor. I took it and put it in my drawer; it was torn just down the middle.

Q. Why did you keep it after it was destroyed?—A. For the reason I have stated—

that I desired to familiarize myself with the system of business, and with the points made in the letter. It was considered a little remarkable by one or more clerks that some action was not taken on the report at the time. I laid it by with no other purpose than I had in keeping other letters of that sort. When I afterward changed from the tall desk to the lower one, that letter was in the desk, and remained there till I resigned.

Q. How do you explain your statement that the clerks were surprised that no action was taken, when it appears by the records that action was taken?—A. There was no action taken on his letter.

Q. Did the clerks all know about this letter?—A. No; only one or two of them. This letter in the letter-book was written on the 15th of September, and Mr. Howenstein's letter was written on the 3d or 4th of September—very early in September, not longer than two or three days after the receipt of the examiner's report, and about the same time that Mr. Bull handed in a supplementary report of that examination.

The CHAIRMAN. Mr. Bull testified yesterday that he handed that in between the 10th and 12th of September.

WITNESS. The report ought to show the date of its recceipt in the office. There was usually a printed stamp on each report. They were opened by the mail clerks and stamped. Every letter and paper was stamped, and that report ought to show the date of its report in the office.

Q. But you say this letter was written after the supplementary report?—A. No, sir; it was written a few days before the supplementary report was received. When that supplementary report was received, Mr. Howenstein remarked to me that that strengthened him in his opinion.

Q. I suppose you saw Mr. Bull's original report?—A. Yes, sir, I did, and examined it.

Q. Do you recognize this [handing a paper to the witness] as the report?—A. Yes; that is the original report. There are Mr. Howenstein's initials on it, and there are mine in the corner. I examined the report. My initials, H. H. S., show. that I had it and examined it.

Q. Did you record it?—A. No, sir; these reports went to different books, according to the organic number of the bank; and this report would go to the clerk who had t he record of that bank. My duties were to examine the reports as they were received, and generally under Mr. Howenstein's direction. I examined both the quarterly eports and the examiner reports.

Q. But it would be recorded immediately after your examination?—A. No, sir; these were not copied into the books for some year or two afterward, and some of them were not copied for three years. I think it was three years afterward that another clerk and myself took three books and copied in them all the bank examiners' reports.

By Mr. MERRIAM:

Q. Are these reports of the examiners kept in the books of the Department?—A. Yes; they are.

Mr. MERRIAM. Why did you not get a copy of it before?

WITNESS. All these reports were put on file. There were one or two clerks who pursued that work steadily, and must have copied all the reports in their books, commencing with the first bank that was organized—the First National Bank in Philadelphia—and going up to No. 200. All the reports between those two numbers would go into that one book. Another clerk would copy into another book all the reports from No. 200 to No. 400. Two or three clerks were behindhand, and under Mr. Magruder the records were brought up. That fact can be substantiated by the testimony of Mr. Kassen, and other gentlemen who recollect the records being brought up in that way. After Mr. Magruder succeeded Mr. Howenstein as chief of the division, Mr. Magruder commenced the work of bringing up the records, and it was done in that way.

Q. It seems that this report of Mr. Bull's has disappeared from the Department; can you give an explanation of that fact; how came it out of the Department, do you know?—A. No, sir. I received the report about a month ago through the mail—this original report; it was sent to me with a letter which I have now at my house; that letter came to me through the mail. My first impression was to return it to the Comptroller; but the character of the letter will explain itself. I held the report, and took no action upon it.

By Mr. RANDALL:

Q. You said yesterday that you did not leave the report at my house?—A. I did not leave it.

Q. Do you know who did leave it?—A. No, sir; the report was taken from me by a newspaper reporter, Mr. Radebaugh, to copy. He came to me for a copy of the report, and I let him take it.

By Mr. COX:

Q. How did he know that you had it?—A. I do not know. He came to me and said

that he understood that I had a copy of the report. He was formerly a clerk in the Third Auditor's Office.

By the CHAIRMAN:

Q. Is he in Washington now?—A. I think he is; his name is R. H. Radebaugh.

By Mr. RANDALL:

Q. Do you know whether he left it at my house?—A. I do not know that he did.

By Mr. MONROE:

Q. Has he returned it to you?—A. No, sir; I never have seen it since till yesterday, when Mr. Randall showed it to me as I was leaving the committee-room.

Q. That report is part of the regular files of the office?—A. Yes, sir.

By the CHAIRMAN:

Q. I asked you yesterday who furnished the Tribune with a copy of Mr. Bull's report, and you said you did not know?—A. No, sir; I do not know.

Q. Had you not a strong suspicion?—A. I had a suspicion, but I had no knowledge.

Q. It did not amount to knowledge?—A. No, sir; Mr. Radebaugh was a correspondent of some three or four other papers. He was writing letters to the New Orleans Times and other papers. He wanted it to get the points, as he said it was a matter of public interest, and he took the report to make a copy.

By Mr. COX:

Q. Have you any idea you stole the report?—A. No, sir; I had an idea that it came from a certain clerk; but I never have asked him about it.

By the CHAIRMAN:

Q. You think that it was stolen recently?—A. I suppose so; it came to me recently. I forget now whether the report was received through the mail. When I went home from the Capitol on that day my wife handed it to me with some other letters and papers that came by mail; but I do not recollect whether or not there was any postmark on the envelope. I think, however, that I have the envelope.

By Mr. DOX:

Q. Is the letter signed?—A. No; there is a star at the conclusion of the letter.

Q. Did you receive that report since you first gave your testimony here, or prior to it?—A. It was before I gave my testimony here.

By the CHAIRMAN:

Q. You did not think that a fact so important that it should be mentioned to the committee?—A. If the question had been asked me, I should have told it; but I was not asked the question. You asked me about my actual knowledge; you did not ask me whether I had a suspicion.

Q. Do you think that was telling the whole truth when you had the report in your possession at the time?—A. I did not have it in my possession at the time. I had received the report and had parted with it. I had not it in my possession at the time.

Q. To whom had you parted with it?—A. To Mr. Radebaugh; and I wish to connect him with this particular transaction. He had been to me four years before for the same thing. He was a room-mate of Mr. Howenstein's, and when he resigned he went South, to New Orleans, as a clerk in the custom-house. He came to me saying that he suspected Mr. Howenstein had been bribed, and he wanted to trace out some things. He had heard some charges against Mr. Hulburd, and he came to ask me what information I could give him. I told him I had none to give. I was then a clerk in the Department. About a week after that I was sent for by Mr. McCulloch.

Mr. COX. It is not necessary to go into that.

WITNESS. I want to show that he must have come to me from the knowledge he then had in regard to it. He came to me to know if I could throw any light on the subject. I told him that I had received the paper, and I gave him the report; I afterward told him I would have nothing further to do with it, and I do not know what he did with it.

By Mr. MONROE:

Q. Did it seem to you that that report was your property, in any sense, so that you might rightfully retain it?—A. I was not clear about that.

Q. To whom does that document belong?—A. It belongs to the files of the Department.

Q. Did you not know it to have been stolen from the files of the Department?—A. It was taken from the files of the Department. The party stated in the letter to me that he did not desire to steal the report, or to destroy or mutilate it in any way, and that he wanted it returned after the committee should have used it.

The CHAIRMAN. And yet you came before the committee after that and did not state a word about it?

WITNESS. I was not asked specifically about that, and I volunteered nothing.

By Mr. COX:

Q. Do you know the handwriting in that letter?—A. I do not.

Q. Who do you suppose wrote that letter?—A. I have no idea as to who did. The handwriting is entirely unknown to me.

By the CHAIRMAN:

Q. You said yesterday that you did not know who furnished the Tribune a copy of Mr. Bull's report.—A. No, sir; I do not.

Q. And you were also asked if you had anything to do with the preparation or furnishing of the materials for the article in the Tribune.—A. I do not recollect being asked that question.

The CHAIRMAN. I asked you that question myself, and you answered me that you "Did not say you did not." I put the question to you now: had you anything to do with the preparation or furnishing of the materials for the article in the Tribune?—A. I had to that extent, but I understood you to ask me if I wrote the letter.

Q. Had you anything to do with the preparation or furnishing of the materials for the article in the Tribune?—A. I do not know whether that article was furnished by Mr. Radebaugh or not. That is the point I make.

By Mr. COX:

Q. Did you do any part of the composition of the article?—A. No, sir; Mr. Radebaugh asked me certain questions about it with which he was not familiar, and which I answered specifically. I do not know who wrote the letter.

By the CHAIRMAN:

Q. But you knew that he was writing an article?—A. I supposed he was writing for the New Orleans Times, as he was a correspondent for that paper.

Q. Then you did furnish materials and assist in the writing of that article, did you not?—A. No, sir; I did not assist in the writing of the article.

Q. You furnished the data for it, as that was undoubtedly the article which Mr. Radebaugh wrote?—A. I do not know that; he may have written three or four letters.

Q. You did assist him in writing an article?—A. *An* article, not *that* article.

Q. How do you know it was not that article?—A. He asked me particularly as to certain points, and no part of them was used in the Tribune article at all. Therefore I did not assist in preparing the Tribune article.

By Mr. COX:

Q. Tell us on what day you got that report?—A. I will bring the letter before the committee, and perhaps it will show the date.

[Part of the testimony of Senator Chandler, in which he stated that he would not believe the witness under oath, was here read to the witness.]

Q. Is there any prejudice on the part of Senator Chandler against you, and if so, why?—A. Mr. Chandler never wrote me any such letter as he speaks of. He did write such a letter to a gentleman whom he removed from office, because he suspected he was the author of a letter published in the paper which I was publishing in Michigan—the Kalamazoo Telegraph. Mr. Atlee, the gentleman who was removed, stated that he would furnish him his own affidavit, as well as mine, that he did not write the letter, and Mr. Chandler replied that he would not believe either of us on oath.

Q. What is the reason of Senator Chandler's enmity to you?—A. Because I refused to give up the name of the correspondent.

By the CHAIRMAN:

Q. What was the purport of the letter?—A. I have it in my pocket and will read the portion referring to Senator Chandler.

Witness read as follows:

"Our Michigan association has done little or nothing this summer, but ere Congress convenes we shall organize anew for a vigorous winter campaign. Just now the subject of importance discussed among us Michigan clerks is the removal of Redfield as special agent for the detection of mail depredations in Michigan and Indiana. The Associated Press dispatch stated that Redfield was removed at the instance of Senator Pomeroy. I happen to know the facts in the matter, and while it is true that Senator Pomeroy consented to request the removal of Redfield, it was simply to please his friend Senator Chandler. This is, of course, a matter of great astonishment to those who know nothing of the recent developments, as Redfield has long been one of Mr. Chandler's most trusted 'henchmen.' The facts are that Mr. Redfield—whether in a moment of conviviality or not is of no importance—revealed to a friend certain facts

which should have been kept a profound secret under the circumstances. The secret disclosed by Redfield was in relation to some of Senator Chandler's amours, in which it seems Redfield played the part of sentinel for the amorous Zachariah, which employment according to all accounts was one in which Redfield is particularly qualified by long experience. It is also stated that Redfield informed his friend (?) of certain business transactions in which he had played go-between for Chandler and other parties, which would hardly bear the light, and that in fact, to use Redfield's own words, 'he (Redfield) could wind Chandler around his finger.' Redfield's 'revelations' were, of course, communicated to Mr. Chandler, and though that gentleman was well aware of the value of Redfield's services to him, he was compelled to 'decapitate' him in spite of the remonstrance of his colleague, Senator Ferry, for whom Redfield had rendered valuable services during the last senatorial campaign at Lansing.

"Redfield has done during the past ten years a great deal of dirty work for his master, but that would not save him. Whether his punishment for 'blabbing' will prevent any further 'developments' remains to be seen. Certainly Redfield could tell some 'queer' stories if disposed, and it is to be hoped that he has the disposition."

WITNESS. That letter was written by a clerk in the Departments here, and because I would not give up the name of the writer, Mr. Chandler pitched into me.

By Mr. COX:

Q. And is that the occasion of his saying that he would not believe you under oath?—A. I suppose it is. Mr. Chandler had before given me his indorsement.

Q. How did you come to be appointed clerk to a committee of the House? He says he did not recommend you for the appointment.—A. No, sir; I was appointed by Governor Blair.

Q. Did Mr. Chandler recommend you for that appointment in the Treasury?—A. No, sir; I should say not.

Q. Did he ever recommend you for any appointment?—A. Yes; he recommended me for a consularship, and also, I think, for supervisor.

Q. After you published this letter?—A. No, sir; before. He indorsed one or two letters as to my character and reliability. I have an article here, published in a daily paper in Mr. Waldron's district—the Adrian Times—which says:

[From the Adrian Times of October 2, 1871.]

"A RIDICULOUS STORY, PROBABLY.—The special Washington dispatches to both the Chicago Times and the Chicago Tribune, on Saturday, contained nearly similar paragraphs in relation to a recent visit to Washington, by Senator Chandler. We copy the paragraph which appeared in the Times, as it is the most explicit:

"'A short time since the Kalamazoo Telegraph, a radical paper, contained a Washington letter reflecting on the morals of Senator Zach. Chandler. The latter suspected that it was written by a Michigan clerk here, and endeavored but failed to ascertain the name of the author from the editor of the paper. He came to Washington and pounced upon a clerk in the Indian Bureau, whose head was at once chopped off by Secretary Delano, despite the fact that the clerk and editor were both willing to make affidavit that the latter was an innocent party. Chandler was inexorable, and would not consent to the restoration. Postmaster Stone, of Kalamazoo, who is one of the proprietors of the Telegraph, will probably be removed next.'

"This seems to us a very silly and improbable story. Senator Chandler is surely too old a politician to pay such particular attention to a newspaper paragraph. But the whole bother grew out of a recent removal of Mr. Redfield. It will be remembered by our readers that shortly after that event, the Kalamazoo Telegraph insinuated that some official derelictions of Mr. Redfield had occasioned his dismissal. We informed the Telegraph at the time that Mr. Redfield's removal was on account of personal reasons alone, and soon afterward a Washington correspondent of that paper confirmed what we said, making more particular mention of the cause, however, than we thought proper to give. We heard soon after this correspondence appeared, but did not believe the story, that Senator Chandler, premising that the communicative correspondent was a clerk in one of the Departments at Washington, had donned his war-paint, and proceeded to the capital, intent on the scalp of the unfortunate scribbler. We are surprised to see the story receive the authentication of two correspondents usually so well-informed as are the Washington representatives of the Chicago papers we have mentioned above. But we trust that the official head of our friend, Dr. Stone, the Kalamazoo postmaster, will not rest the less easy on his pillow because of this item. It should not for two reasons: first, because he was in no way responsible for the appearance of the letter which is said to have made this trouble, for his connection with the Telegraph ceased some time since; and, secondly, because a story nearly identical with the one told by the Telegraph is current all through this congressional district, and Senator Chandler is far too wise a man to attempt the job of 'going for' all who have rehearsed the story of Redfield's downfall. Hence we think the story of the Senator's

visit to Washington a ridiculous fabrication. Either that, or Mr. Chandler is lacking in his usual shrewdness."

And also the following from the Chicago Tribune of October 7, 1871:

[From the Chicago Tribune, October 7, 1871.—Editorial.]

"Let a truce of forty-eight hours be called in the war which some patriotic, but perhaps misguided citizens have commenced to wage upon the existing system of civil service appointments and dismissals; for if these could not be used as the weapons of a Senator for rewarding his primary packers, and punishing the villains who do not do him homage, how could Chandler, the great Michigan statesman—he who Rareys the British lion, and yokes him, like the whirlwind, to his copper-bottomed car—how could he have taken vengeance, as he did the other day, upon the author of a story derogatory to his (Z. C.'s) fame? It was printed in the Kalamazoo Telegraph and came thither from Washington. The identity of the writer is to the great Michigander unknown; but this he does know, that he wants revenge, and is bound to have it; that the Telegraph is published in Kalamazoo; and that one of its proprietors is named Stone. With these data in his red right hand, Z. C. has proceeded to Washington, and, as we learn from the Detroit Tribune, commenced a general slaughter of Federal officials whose name is Stone, or who hail from the vicinity of Kalamazoo. He stalks sullenly from Department to Department, and from Bureau to Bureau, brandishing his hatchet aloft and muttering, *fee! faw! fum!* He has already several heads in his basket, none of which have been responsible for the scandal. He is still on the warpath, however, and will not give over until he has taught all Michigan and all Washington that hell has no fury like a Chandler scorned. But if the hatchet of official decapitation were to be withheld from such political tomahawkers as Chandler, how could they revenge themselves when rudely exposed in print? And where would be the dignity of the Senate? It is, therefore, that we call for a short but solemn truce—during which, however, the enraged Michigander is expected to slash away with his hatchet."

Mr. Chandler wrote a letter to friends of his in Kalamazoo, demanding the name of the author of this letter, and I refused to give it.

Q. That is the only reason you know for his enmity?—A. That is the only reason.

By Mr. DOX:

Q. Did he raise any question of veracity in that connection?—A. The only correspondence I had with Mr. Chandler was a letter I wrote to him stating that Major Atlee was not the author of the letter and knew nothing of it, and ought not to be held accountable for its publication.

By Mr. RANDALL:

Q. You did not give up the author?—A. No, sir; and never will.

By the CHAIRMAN:

Q. Do you know a man named S. M. Cutchon, the bank examiner from Michigan?—A. Yes.

Q. Did you ever write him a letter saying that Mr. Hulburd wished him to resign?—A. No, sir. I tried to make an amicable arrangement with Mr. Cutchon, in accordance with Mr. Hulburd's own suggestion.

Q. You never wrote to him saying that Mr. Hulburd wished him to resign?—A. I had been recommended for the appointment of examiner in Michigan, and, as my health was bad, Mr. Hulburd, to whom I applied on the subject, suggested that I should make an amicable arrangement with Mr. Cutchon, which I proceeded to do. I wrote him a letter saying that I desired to make such an arrangement.

By Mr. DOX:

Q. That letter was an implied request, or a direction, that he should give up that position, so that you might take it?—A. With the assent of Mr. Hulburd. It was to be understood as an amicable arrangement between Mr. Hulburd, Mr. Cutchon, and myself. I think I wrote to Mr. Cutchon subsequently, saying that I never intended to have him draw any such conclusion whatever.

By the CHAIRMAN:

Q. Did he draw that conclusion?—A. I think he did; but I think that in a subsequent letter that impression was removed.

Q. He inferred from the letter that you had been instructed by Mr. Hulburd to ask him to resign?—A. He inferred that, I suppose; but his inference was not correct. I wrote to him subsequently, saying that I did not intend to convey any such idea, and I do not think that my letter was susceptible of any such construction.

By the CHAIRMAN:

Q. Is Mr. Cutchon a clear-headed sort of man, so that he could comprehend the meaning of a letter?—A. I do not know as to that. He is a gentleman of good standing in Michigan. He never has been a banker, I believe. He was appointed examiner early in the organization of the Bureau, I think.

By Mr. HULBURD:

Q. I wish to inquire of you whether, in the year 1865, you took the leave of absence customary for clerks?—A. Yes, sir.

Q. When did you take it?—A. In August.

Q. What were the dates?—A. I do not recollect.

Q. Do you recollect when you left Washington?—A. I do. I left in the latter part of July, four or five days ahead of my time.

Q. Where did you go on that occasion?—A. I think I went West.

Q. Do you recollect when you returned?—A. Yes; I think I returned on the 1st of September. I was five days ahead of my time. I met with an accident on my return, and was about the office two or three days before I went to work.

Q. You are sure that you were in Washington on the 1st of September?—A. I think it was about the 1st. I know that I was here on the 3d of September.

Q. And were at work in the office?—A. No, sir; I think not. On my return I was hurt on the cars.

Q. When did you resume work in the office?—A. I do not recollect as to that. I am not clear whether I resumed work within a week or ten days. It was some week or so.

Q. You returned on the 1st of September, and did not resume work for a week or so?—A. That is my impression. I resumed work within a week after I returned, to the best of my recollection.

Q. You would not be positive that it was within a week?—A. It was within a week, I think.

Q. What enables you to fix the time?—A. Simply because I was about that length of time about the house and about the city. I had been hurt on the head on my return.

Q. What was the length of your leave of absence?—A. A month.

Q. That was the length of time accorded to you in your formal leave?—A. Yes; and I went away a week before my leave commenced.

Q. You say that this letter of Mr. Howenstein's was written within a day or two of the receipt of Mr. Bull's report?—A. Within a day or two after it was received in the division. The report itself may have been held in the office a week before it was brought up for action. It may have been held open for some days; but it was within two days after I first saw the report—after Mr. Howenstein brought it to my attention.

WASHINGTON, D. C., *March* 15, 1872.

SOL'N M. CUTCHON sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. My residence is at Ypsilanti, Michigan. I practice law, and am also bank-examiner for the State of Michigan.

Q. Did you ever receive a letter from H. H. Smith, saying that Mr. Hulburd requested your resignation of the office of examiner?—A. Some two years ago, I think, I received a letter, the exact substance of which I am unable to give; but the purport of it, as I recollect it, was to this effect: Mr. Smith was then in the office of the Comptroller of the Currency. He wrote me a letter of several pages, on the paper of the office. In that letter he quoted what purported to be a lengthy extract from a letter written by the Comptroller of the Currency to some other bank-examiner. The purport of the letter was, as I recollect, that my resignation of the office of bank-examiner would be acceptable to the Comptroller. As I recollect it, it was a substantial request that I should resign in his favor as bank-examiner for Michigan, saying that an arrangement of that kind would be satisfactory to the Comptroller of the Currency. Whether the letter is in my possession or not I do not know. I inclosed it to Senator Chandler, Senator from Michigan, with a request that he should present it to the Comptroller and ascertain if it was written with his authority, and, if so, tendering my resignation peremptorily, which had already been in the hands of the Comptroller for some time, subject to his acceptance.

Q. Do you recollect the reply that you received from Senator Chandler?—A. Yes, sir; the reply that I received was, that the letter was written without the knowledge

of the Comptroller, and that not only did Mr. Hulburd not desire any change of the kind, but that he was very anxious that I should retain the position which I had occupied several years.

Mr. COX inquired of the chairman the object of the testimony. Was it to impeach the credit of the witness, Smith?

The CHAIRMAN replied that it was.

Mr. COX, (to witness.) You never got any second letter from Mr. Smith?

WITNESS. I received, I think, two letters from Mr. Smith, but whether they were both received before I received this answer from Mr. Chandler I am unable to say.

Q. What was the purport of the last letter?—A. I cannot really say whether the principal letter was first or second. I think the principal letter was first; I mean the one in which he quotes at length from the official correspondence of the office.

Q. You do not know whether the letter that you sent to Senator Chandler was the first or second?—A. I am unable to say.

Q. Did you ever get a letter from Mr. Smith, saying that he had never meant to express the idea that Mr. Hulburd desired your resignation?—A. I cannot tell that that was its purport. I replied pretty tartly to Mr. Smith's letter, because it struck me as remarkable. What the purport of his answer was I cannot say. There was a second letter written.

By Mr. RANDALL:

Q. You recollect the first letter, not the second?—A. The second letter was a brief letter. That is my recollection of it.

By Mr. DOX:

Q. Was the effect of the second letter to relieve your mind of the impression produced by the first?—A. I would not quite say that. I think it was a letter the effort of which was to indicate that he did not mean to frighten me into resignation, as I had suspected at first. I should think that was about the substance of it. I think he meant to convey to my mind that I had misconstrued his first letter. That would be my recollection about it.

By Mr. COX:

Q. Did he say anything about his intending simply to have a temporary absence for the summer?—A. In one of his letters he said that his health had failed, and that he wanted a vacation in the field. Which letter that was I am unable to say; but that was the excuse, and I should rather say that that was in the first letter—the principal letter.

Q. Did you gather from this correspondence the idea, or do you wish to convey the idea, that Mr. Smith had acted perfidiously toward his principal?—A. I dislike to give simple impressions. I regret that I have not got the letter with me. My best recollection, and the impression which I received from the whole of it, was that it was an intimation from Mr. Smith, bearing the appearance of authority, so much so that I was in doubt whether or not it was written by Mr. Hulburd's authority or cognizance or knowledge, so that, instead of returning it directly to Mr. Hulburd, I forwarded it to Senator Chandler. The whole impression that it gave me was, that Mr. Smith wanted me to understand that it was the safest thing for me to do to get away.

By Mr. MONROE:

Q. What was the purport of the extract embodied in Mr. Smith's letter?—A. I should think that he copied pretty much a whole official letter to some other bank-examiner, in which that bank-examiner is relieved from his duties in some field, saying that it was desirable that some change should be made in the bank-examiner, as he could see himself, or something to that effect. The letter went on to say (whether this was in the extract or not I cannot say) that, by making an arrangement with Mr. Smith, I would save the Comptroller the painful necessity of making the change arbitrarily.

Q. Was there something about yourself in that letter addressed to another bank-examiner?—A. He quoted the language applied to some other bank-examiner, in order to show me the policy of the Department.

Q. It was a sort of model letter?—A. Yes.

By Mr. DOX:

Q. Did you recognize it as an extract?—A. That is what he said—that that was the policy adopted by the Department. That was about the purport of it.

By Mr. RANDALL:

Q. Were you to be transferred from one place to another, or to be relieved altogether?—A. My recollection is that I was to be relieved altogether.

By Mr. Cox:

Q. Was it to be a temporary relief?—A. I did not gather that.

Q. Do you recollect the dates of these letters?—A. I cannot tell, but I should think it was about two years ago this spring.

Q. How long a time elapsed between the two letters?—A. I think I probably answered his letter at about the same time that I forwarded it to Senator Chandler; that would be my recollection about it. I think it very likely that I said to Mr. Smith that my resignation had been at the option of the Comptroller for some time, and that I thought that was a novel way of arriving at the result. That would be my recollection about it.

By Mr. Monroe:

Q. This quotation you understood to be a sort of sample of what the Comptroller would do in that way if he set out?—A. I took it as an intimation that it would be the best thing I could do to get out of the way; and, as I had been out of the way for some time, it struck me as a remarkable thing to make the suggestion. In reply to my letter to him, I received this second letter, in which he indicated that I had misconstrued his proposition.

By Mr. Randall:

Q. Were you ever connected with any bank or banking-house prior to your appointment as examiner?—A. No, sir; I was appointed bank-examiner by Mr. Clarke in 1865, and I have held the office since.

By Mr. Dox:

Q. Do you think that you could find these letters?—A. I think they are at my home, in Michigan.

Mr. H. H. Smith said that he had press-copies of the letters, which he would submit to the committee.

Witness. I am satisfied that they were copied by letter-press.

By Mr. Randall:

Q. Did you come here to testify before the committee?—A. Not at all, sir; I am here by the merest accident. I met Mr. Chandler yesterday, and he made some allusion to these letters.

Q. Where was that conversation?—A. I met Mr. Chandler in the Senate Chamber yesterday, after the Senate had adjourned.

Q. You do not know whether Mr. Smith's letter indicated a desire simply that you should retire temporarily for the summer, and resume your place again?—A. My recollection is, that in one or other letter Mr. Smith indicated that he desired a vacation to improve his health.

Q. And that you should resume your office again?—A. I do not now remember that that was conveyed in the letter, and yet it may have been.

Washington, D. C., *March* 21, 1872.

D. F. Hamlink sworn and examined.

To Mr. Cox:

I reside in Indiana avenue, Washington City. I am a general insurance agent. I have known Mr. H. H. Smith about six years. We were clerks together in the same office in the Bureau of Currency. His character is good. His standing, intellectually, was rather above the ordinary run of clerks in the office. I received my appointment in October, 1865, and resigned shortly after the election of President Grant. I was a little over three years in the office.

Question. Did you ever hear anything to Mr. Smith's disadvantage as an officer?—Answer. Not at all. His duties consisted in examining bank reports and writing letters, and generally assisting the chief of that division.

Q. Was there any stain at all on his character?—A. Not that I ever heard of.

Q. What were his relations with Mr. Howenstein?—A. Very friendly, and of rather an intimate character.

Q. Do you know anything about matters in connection with Mr. Rutter?—A. No, sir; my position was a subordinate one, and hence I had no facilities for knowing much about them.

Q. Do you know of anybody in the Currency Cureau receiving money for his services outside of his salary?—A. No, sir; not personally.

Q. What do you mean by that?—A. Not of my own knowledge. I have heard statements to that effect, but I cannot swear to anything of that kind.

Q. Have you any authentic information with regard to that matter?—A. I have heard it stated that a party in Mr. Hulburd's Bureau had received money.

Q. Is it mere hearsay, or have you any information?—A. It is strictly hearsay.

Q. Will you give us the name of that person?—A. I prefer not to do so.

Q. Does that person still occupy a position in that department?—A. Yes; he is still there.

Q. What is the source of your information?—A. I prefer not to give the name of the person who told me. I should rather give the name of the person charged with receiving the money. I prefer not to answer unless I am forced to do so.

By Mr. Dox:

Q. Was the individual who communicated this to you connected with any banking institution?—A. He had been connected with a bank agency at one time. He is not now.

Q. Was he so connected at the time he made this communication to you?—A. No, sir; he was not.

Q. Have you ever had any communication with any bank officer in reference to the manner of proceeding, and the influences that control the disposition of affairs in the way of chartering banks, &c., in the Currency Bureau?—A. No, sir. I never asked the question. I never made any inquiries on the subject; but accidentally, while I was away from the city, I was spoken to in reference to the office by a gentleman who had been president of a bank, and who knew I had been connected with the office.

Q. What did he say?—A. He said it was generally understood at New York that no circulation or charter could be secured for a bank unless it was done through Mr. Hulburd's brother.

Q. Who was that bank officer?—A. I prefer not to give his name.

Q. What bank was he connected with?—A. I cannot swear to that. He had been president of a bank, but was not at that time.

Q. What bank?—A. I do not recollect the name. It was a New York bank. The party's name is Orvis.

By Mr. Monroe:

Q. Repeat what he said.—A. I met Mr. Orvis in Philadelphia, three years ago last spring, I think. During our conversation he spoke of his having been a banker. I knew of his having been a banker, although that was the first time I met him. I mentioned that I had been in the office of the Comptroller of the Currency. He then told me, speaking of things generally, that it was generally understood that no circulation could be secured, or a charter for a new bank, unless it was secured through Mr. Hulburd's brother. He simply made that statement without being asked a question. I do not know that Mr. Hulburd has more than one brother.

Q. Was he connected with the office?—A. Yes, sir. He had been cashier at one time in one of the southern banks; I think in Richmond.

By Mr. Cox:

Q. Where was this conversation?—A. At the residence of Jay Cooke, seven or eight miles outside of Philadelphia.

Q. How did that conversation happen to take place?—A. We spent the night there at Mr. Cooke's house, and were talking over matters pertaining to the business.

Q. Did you go out with him to see Mr. Cooke at his residence?—A. Yes, a party of us; about twenty in all.

By Mr. Randall:

Q. Did you know a Mr. Perkins, or a Mr. Hussey, connected with the office?—A. I knew Mr. Perkins.

Q. What were his duties there?—A. He was shifted about from one place to another. He was at one time in the division that I was in, assisting in making out the abstracts, and consolidating reports of the banks.

Q. Do you know when he left there?—A. Perhaps a little over a year ago.

Q. Do you know of his ever having offered to secure charters and circulation for banks?—A. I have no personal knowledge of it.

Q. Give us your information about it.—A. I heard that he figured a little in that direction when I was in the Bureau. After I left it I paid no attention at all to it.

Q. Figured how?—A. In the way of securing charters for banks, and matters of that kind.

By the Chairman:

Q. What do you mean by securing charters?—A. Securing them through his influence with Mr. Hulburd, I suppose.

Q. Anything more than simply making an application and preparing papers?—A. Being in the Bureau there, and understanding the working of the office, he was supposed to be better able to do it. This was while he was in the Bureau.

By Mr. Cox:

Q. Do you know anything to connect the Comptroller with any of these things?—A. No, sir.

By Mr. Dox:

Q. Had this business any connection with Perkins?—A. No, sir, except that Perkins was a clerk in the office, and brought into contact with the Comptroller.

By Mr. Merriam:

Q. Was he supposed to make an individual profit out of his connection with getting charters?—A. Yes, sir, he was supposed to.

By Mr. Randall:

Q. I understand you to say that you did not know Mr. Hussey?—A. No, sir.

Q. Do you know of his being connected, directly or indirectly, with the Currency Bureau?—A. I do not know that I ever heard the name.

By Mr. Monroe:

Q. Would you not feel at liberty to mention the names of the persons to whom you have referred, if the committee were of opinion that you ought to give them?—A. I would prefer not to. If the committee insist upon it, I might give the name of the person who was supposed to have received the money; but under no circumstances would I like to give the name of the party who told me, unless the committee can compel me to; although, if the gentleman were here, he would probably make no objection.

Q. What was the name of the person charged with having taken the money?—A. Patton.

By Mr. Cox:

Q. What are his relations to the office?—A. He is in charge of the division of redemption, I think.

Q. Is he still there?—A. I think so.

By Mr. Monroe:

Q. For what purpose did he receive the money?—A. I can only say that he received it for putting something through the Bureau in some way or another. I must confess that I did not pay much attention to it, except that I heard it.

Q. Were any facts stated on which this was grounded?—A. There was no doubt of it. The gentleman who told me knows all about it, and is personally acquainted with the facts; so he told me.

By Mr. Dox:

Q. Is that gentleman in the city?—A. No, sir. I do not know where he is.

By Mr. Cox:

Q. You had better give his name and address.—A. Even if you got the name, it would be difficult to find him, because he is shifting about from one place to another.

Q. Give us his name and his last residence.—A. I should prefer not to give it unless I am forced to do so.

Mr. Randall moved that the witness be required to give the name, and it was so ordered.

Witness. The gentleman's name who gave me this information is E. S. Turner.

Q. Was he employed in the Bureau?—A. No, sir.

Q. What is his position and where is he now?—A. I received a letter from him a few days ago. He was then in New York City, and was going to Philadelphia. He is vice-president of the Excelsior Life Insurance Company, of New York.

Q. You say that he spoke from his own personal knowledge?—A. Yes. I understood him to say that he was personally aware of the fact.

Q. Tell us what he said in that connection.—A. As I said before, I felt no interest at all in the matter; but from what he said, I understood that Mr. Patton received money for giving them certain facilties as bank agents.

Q. What facilities do you refer to?—A. I am not sufficiently familiar with the working of that agency to give you a correct idea of the thing. It was something in connection with bonds or accounts of certain banks—something in the way of redeeming, and all that sort of thing.

Q. Did he give you any specific instance of money being paid?—A. I think he spoke of one transaction, particularly.

Q. Narrate that.—A. Simply his receiving a certain sum in a lump at one time.

Q. How much?—A. Four hundred dollars.

Q. From whom?—A. From the firm of which he was a member.

Q. What firm was that?—A. I think the name was Pratt & Turner. I think they had a bank agency here in this city.

Q. You do not know precisely what the consideration of four hundred dollars was for, as stated to you?—A. No; except it was something in relation to using Adams Express at the expense of the Government, or something of that kind.

Q. Using Adams Express for the purpose of bringing on notes here?—A. I cannot answer that positively. It had something to do with the expressing of notes and bonds.

Q. With a view to enhance the profits of that express company?—A. No, sir; to enhance the profits of the agency.

Q. The special business of this firm was to be aggrandized by his action?—A. I think so.

Q. And he was to be paid for helping them?—A. Yes, sir.

Q. You cannot be more specific, can you?—A. No, sir; I have given you all the information I have.

Q. Did he undertake to connect the Comptroller with any such transaction in his conversation with you?—A. I do not think that he did. I have no recollection of that kind.

By Mr. RANDALL:

Q. Do you know whether Mr. Perkins is connected with Mr. Hulburd, either by marriage or blood?—A. I do not know that he is. They were in business together, I believe. That is the only relationship I know of. They were in the commission business in Chicago, as I was informed. This was before Mr. Hulburd came into the office as Comptroller, and before he was appointed in any capacity at all in the office.

By Mr. MERRIAM:

Q. Do you know whether Mr. Perkins was a partner of Mr. Callender, the late bank examiner in New York?—A. No, sir; I do not know; I never heard that he was.

By Mr. COX:

Q. What did you say your business was?—A. I am a general insurance agent, and one of the police commissioners for the District of Columbia.

Q. Are you connected in any way with Mr. Cooke's National Life Insurance Company?—A. I was at one time; I am not now. At the time I met Mr. Orvis, I was connected with the National Life Insurance Company. That is what threw me into connection with him. Mr. Orvis is now, I believe, president of a private bank in New York. I did hear the name of the bank, but I do not recollect it. What I mean by a private bank is, that it is not a national bank.

Q. Can you give us any other information in reference to paying money to any officer in the Treasury?—A. That is all that I know.

Q. You have not discovered anything as a police commissioner?—A. No, sir; I have not. There was some money supposed to have been stolen by a colored man; I do not know that it was.

By Mr. RANDALL:

Q. What connection has that colored man with the police?—A. He had no connection with the police that I know of, except that he was arrested. Mr. Hulburd spoke to me about putting him on the police.

Q. Was that subsequently to his being dismissed from the office as a thief?—A. I do not know that he was dismissed as a thief. He was tried for theft.

By Mr. WALDRON:

Q. How long ago is that?—A. That was perhaps three years ago. The money was lost about four years ago—something like $12,000, I think. He applied for a position on the police force about two years ago. He was tried on two or three different occasions for the same offense, but he was never convicted, I think. The money stolen belonged to the Government. He was accused of being the person that stole it, and he was tried for it.

By Mr. RANDALL:

Q. When was he dismissed from the Currency Bureau—subsequently to his trial, or before his trial?—A. I think he was removed at once.

Q. By whom?—A. By Mr. Hulburd, I think.

Q. Was he, after that time, recommended by Mr. Hulburd for a position on the police?—A. Verbally. Mr. Hulburd spoke to me in his behalf.

By Mr. HULBURD:

Q. State exactly what I said to you in that connection?—A. The colored man called upon me on several occasions, and asked whether Mr. Hulburd had seen me, and whether I would appoint him. I told him that I could not do it, because, in the first place, he was not eligible. He said to me that Mr. Hulburd had agreed to see me,

but I told him that I had not, up to that time, seen Mr. Hulburd. I met Mr. Hulburd accidentally in front of the Ebbitt House, when Mr. Hulburd talked to me about this colored man, asking me if he had called, and what answer I had given him. I told him, but I do not recollect exactly the words. Mr. Hulburd then said, if he was eligible, or something of that kind, whether I could not appoint him.

Q. I did not recommend him, did I?—A. Not in so many words; but I understood that, if he was eligible, you would like to have him appointed. The colored man came to me two or three times before I saw you, stating that you would call upon me.

By Mr. MERRIAM:

Q. What was your inference in regard to the wish of Mr. Hulburd after that conversation with him?—A. I was inclined to believe that Mr. Hulburd, if he had his choice about it, would have had him appointed.

By Mr. RANDALL:

Q. He did not call upon you not to appoint him?—A. No, sir.

Q. Had you any belief that this colored man was a thief?—A. I had always my belief that he stole the money.

Q. Did you tell Mr. Hulburd so?—A. I was not called upon to do so, and hence I made no such statement.

Q. Was he appointed?—A. No, sir. In the first place, he was not eligible under the law which governs appointments. In the second place, I could not have appointed him, on account of the charge which had been preferred against him.

By Mr. MONROE:

Q. Did you know that he was the person against whom the charge was made?—A. Yes. I was in the Bureau at the time he was tried.

Q. Did Mr. Hulburd know that you knew that?—A. Certainly. I was in the Bureau at the time the money was stolen, and at the time this man was tried.

Q. Then Mr. Hulburd could not have meant to conceal anything from you about the man's previous record?—A. No, sir.

Q. What was the colored man's name?—A. Shooman, I think. He was a messenger in Mr. Hulburd's office. He was first appointed, I believe, by Secretary McCulloch. He was always looked upon as an honorable, straightforward, honest man, up to the time of this charge of stealing the money.

By Mr. MERRIAM:

Q. Do you know or suspect any motive on the part of Mr. Hulburd for wishing the appointment of this man?—A. I do not.

By the CHAIRMAN:

Q. Was it money that this man was supposed to have taken?—A. Yes; notes that were ready to be shipped to the banks, but were not yet signed by the bank officers. In every other respect, they were genuine; and he was supposed to have forged the names of the bank officers.

By Mr. WALDRON:

Q. Repeat Mr. Orvis's remarks in Philadelphia about the Currency Bureau.—A. In the course of the conversation which I had with him, his former occupation came up, he saying that he had been vice-president of some bank, (I do not recollect what bank.) Then I told him I had been a clerk in the Bureau to which he made his reports, and he made the remark that it was generally understood in New York that no new charter could be issued for a bank unless it was securred through Mr. Hulburd's brother, who was then bank examiner, or was assisting some one as bank examiner, I am not positive which.

Q. Did he specify any particular transaction of that kind?—A. No, sir, I do not think he did. If he did, I do not recollect. I have never repeated the conversation to any-one before. This occurred two years ago last summer.

WASHINGTON, D. C., *March* 21, 1872.

RANDOLPH F. RADEBAUGH sworn and examined.

Witness stated that he had received a subpœna from the committee to attend on last Tuesday, but that, as he could not attend, on account of illness, he had written a letter to the committee, which he believed, however, had not been delivered. As that letter contained a full statement of the matter, so far as he had any knowledge of it, he should like to read it to the committee.

Permission was given, and the witness read and put in evidence the following letter:

WASHINGTON, D. C., *March* 18, 1872.

To the Committee on Banking and Currency:

GENTLEMEN: I have received your subpœna commanding me to appear before you at 10 o'clock to-morrow morning, (Tuesday the 19th instant,) "then and there to testify touching matters of inquiry committed" to you, &c. By reason of illness I shall not be able to appear; but, presuming the matter to be inquired into in this case has reference to my knowledge concerning the Hulburd investigation, I beg leave to submit the following statement, which contains all the information I am in possession of having any bearing on the case:

In the month of January or February, 1868, it was intimated to me that irregularities had occurred in the administration of the Currency Bureau which afforded strong ground for suspicion of fraud on the part of Comptroller Hulburd and a prominent clerk in his office; and I was told that Mr. H. H. Smith, then a clerk in the same Bureau, could inform me more particularly about the matter. I sought Mr. Smith, with whom I had been acquainted some years, and he confirmed the rumor, saying that he could place his hands on official documents that would prove conclusively a charge against Hulburd of mal-administration, and that he had no doubt oral testimony in that connection could be procured that would prove him to have received bribes. Mr. Smith, notwithstanding my earnest solicitations, refused to give me any details, saying that he had no right to do so, but saying also that, if I could awaken interest in the matter on the part of the proper authorities, or place him in communication with them, he would quickly make good his word to me. Relying upon his friendship for me, his integrity and judgment, as guarantees that he was both honest and correct in his suspicions; and knowing Hugh McCulloch, then Secretary of the Treasury, to be a friend to Hulburd, and having additional reasons to doubt that he would take action in the matter if it were brought to his notice, I went to General Sherman and told him the substance of my information against Hulburd, hoping that he would lay the case before the President; but General Sherman refused, saying that inasmuch as it had no connection with his department he could take no action, and properly referring me to the Secretary of the Treasury. Here the subject dropped, with the exception of a few unimportant conversations had with Mr. Smith.

About the latter part of January last I met Mr. Smith at the Capitol, not having seen him for nearly three years, and invited him to call at my office. I am a newspaper correspondent, and was then engaged in assisting Mr. D. D. Cone, correspondent for the Philadelphia Public Ledger and other papers. Mr. Smith responded to my invitation by calling the evening after our meeting at the Capitol. The Hulburd matter was then reviewed, when he told me that he intended to furnish new matter for investigation, and that he had been put in possession of the report of a bank examiner upon which, and Hulburd's action with reference to it, his charges would be based. I then asked him for a copy of the report for publication, which he promised to give me. Subsequently he called at the office a second time, having with him a report made by John Bull, bank examiner, and gave me the substance of it, which afterwards I embodied in a letter. I gave the letter to Mr. Cone, who dated it February 5th, I think, and sent it to the editor of the New York Herald, and after about a week's delay it was published in that paper. Mr. Smith at that time stated that it was his purpose to deliver the bank examiner's report to the Committee on Banking and Currency, and that it was a fortunate thing that the report had been placed beyond Hulburd's reach, who would undoubtedly have destroyed it, had he known of the intention to arraign him before your committee on this charge. During the interview at my office, when the substance of the report was given to me for publication, as stated, Mr. D. D. Cone came in, and, after some conversation about the matter, asked Mr. Smith for a copy of the report, and from that time up to the publication in the New York Tribune of a letter on the subject, written by me, hardly a day passed without Mr. Cone's application to Mr. Smith for the report, or a copy of it, being repeated. He made persistent effort to obtain possession of the original report; but Mr. Smith as persistently refused, saying that there must be no risk, and that it must be placed in the hands of the Banking and Currency Committee. In my second letter, which was intended for publication in any one of the prominent New York papers, I used certain data furnished me by Mr. Smith, together with a copy of the material portion of the report, Mr. Smith making suggestions as to a general plan for the letter, which I did not follow entirely. After I had copied the report I kept the continuation of the report, marked folio 5, for several days, and then returned it to Mr. Smith, who said that the report should at once be put in possession of the committee. Thinking that it would be an accommodation to him, as he had accommodated me, I volunteered to see the report delivered to some member of the committee, and thereupon inclosed it in an envelope, which I directed and delivered to Hon. Samuel J. Randall, his residence being most convenient for me as to distance.

Mr. Smith did not know until recently that I delivered it in person to Mr. Randall. This is the extent of my information on the subject, and, if desired by the committee, I will make affidavit to the foregoing statement.

Very respectfully, your obedient servant,

R. F. RADEBAUGH.

By Mr. RANDALL:

Question. You put that letter in as a truthful statement under oath?—Answer. Yes, sir.

By Mr. MONROE:

Q. Do you know from whom Mr. Bull's report came to Mr. Smith?—A. No, sir.

By the CHAIRMAN:

Q. You have no idea who stole it from the office?—No, sir.

By Mr. RANDALL:

Q. Are you the gentleman who met me in my own entry and delivered to me a sealed envelope which contained that report?—A. I am the person.

By the CHAIRMAN:

Q. You say in your letter that you had additional reasons for not informing Secretary McCulloch; explain what those additional reasons were.—A. I was clerk at the custom-house in New Orleans, and I had just come back from New Orleans when I met Mr. Smith. While in New Orleans I was told by officers of the custom-house that Mr. McCulloch was so involved in the sugar frauds there, or with parties interested in them, that he could not, or would not, take action to bring these parties to justice, who were engaged in the frauds, and would not investigate them. These were my additional reasons.

By Mr. RANDALL:

Q. Were those parties ever tried?—A. Perry Fuller, who was collector at the time, was tried. I do not know that the other parties were tried.

By the CHAIRMAN:

Q. You speak in your letter of Mr. Smith saying that he had been put in possession of the report of a bank examiner; did he tell you what report that was?—A. No, he did not tell me who the bank examiner was until he showed me the report.

Q. Mr. Smith did not give you the report at that time, only the substance of it?—A. That is all.

Q. And all this time you had not the report in your possession?—A. No, sir. Part of the time I had it in my possession. It came into my possession a few days before I sent my letter to the New York Tribune.

By Mr. HULBURD:

Q. Did Mr. Cone apply to you for it at that time?—A. Mr. Cone did not apply to me for it at all, but to Mr. Smith. He sent me to him for it. I did not intend to say that he asked me for a copy of the report. I did not keep all the report, but only the remarks on the fifth page; and these were all of the report that appeared in the letter published in the Tribune.

Q. Did you separate the tabular statement from the report?—A. I did not keep this tabular statement at all.

Q. How did they get together before you brought the report to Mr. Randall?—A. I returned it to Mr. Smith and received it from him again.

By Mr. RANDALL:

Q. And then you delivered it to me?—A. Yes, sir.

By Mr. COX:

Q. Have you any idea who got the report from the Currency Bureau?—A. None whatever.

Q. Did nobody ever tell you directly or indirectly?—A. Mr. Smith said he received it through the mail.

By Mr. MONROE:

Q. Did Mr. Smith give you any suggestion or hint as to who the person might be?—A. No, sir.

By Mr. DOX:

Q. Who is the person alluded to by you in your letter as the prominent clerk in Mr. Hulburd's office, against whom suspicion was directed?—A. Mr Howenstein. Mr. Terry was the gentleman from whom I received information that these irregularities existed.

By Mr. RANDALL:

Q. What were your relations to Mr. Howenstein?—A. I have known him for ten years; we were room-mates and intimate friends.

Q. Did you know anything in regard to his connection with the Currency Bureau?—A. I understood that he was chief clerk in the division of reports in the Bureau.

Q. Do you know of his ever having received any compensation other than his legitimate salary?—A. No, sir; I do not know.

By Mr. MONROE:

Q. How were you impressed by this expressed suspicion of Mr. Terry? Was your mind affected by it?—A. About that time Mr. Howenstein went West, I think, to examine a bank, and he seemed to have a good deal of money. I think he told me he had about $800 or $1,000—a large sum, and more than I knew he could save from his salary. The thought occurred to me, or was suggested to me by the circumstance, that he must have had an unusual way of making money fast. That is all I know about it.

By the CHAIRMAN:

Q. Was he carrying this money West with him?—A. No, sir. When we were in Columbus he was incumbered with a considerable debt, for a young man, and he talked a good deal about relieving himself from that burden. I did not see very well how he could do it in the time and accumulate this sum of money from his salary.

Q. Did anybody suggest to you, or was it a matter of conversation, that the publication of this report in the Tribune might lead to an examination and detection of who had stolen it, or that it would be dangerous to have it in your possession or Mr. Smith's?—A. No, sir; I do not recollect anything of that kind.

Q. Did it occur to you at all that the communication in the Tribune, evidently containing a part of the report, would be likely to lead to an investigation, as whoever wrote that article must have had access to the report which had been stolen?—A. Certainly, I knew that that must be very plain to anybody.

Q. Did it not occur to you, therefore, that it would be better to send it back, and not have it found in your possession or Mr. Smith's?—A. No, sir; I did not think there was any danger in it, or anything wrong about it.

Q. Not to have stolen papers?—A. I did not know that it was stolen.

Q. You knew that it belonged to the Department?—A. Certainly.

Q. And you must have understood that it was stolen from the files of the Department. It could not be properly in Mr. Smith's possession.—A. It was sufficient for me to know that he had it, and that it ought to go to the public, and I took it for that reason. I knew that it was done for a good purpose—that whoever stole it did it for a good purpose. The end in that case justified the means.

TUESDAY, *March* 26, 1872.

On motion of Mr. Monroe, the following resolution was adopted:

Resolved, That from the evidence taken thus far before the Committee on Banking and Currency, in regard to the failures of national banks, it is the judgment of the committee that the successful management of the Currency Bureau requires a change in the officer at the head of that Department.

○

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 154.

RECORDS OF OHIO SOLDIERS IN WAR DEPARTMENT.

RESOLUTIONS

OF

THE LEGISLATURE OF OHIO,

RELATIVE TO

The records of Ohio soldiers in the War Department.

MARCH 28, 1872.—Referred to the Committee on Military Affairs and ordered to be printed.

Resolved by the general assembly of the State of Ohio, That our Senators and Representatives in Congress be, and they are hereby, requested to use their influence to procure such action on the part of Congress as will enable this State to secure copies or transcripts of such rolls, returns, reports, or other records as may be necessary to complete the history of her soldiers.

Resolved, That the governor be requested to forward a copy of these resolutions to each of said Senators and Representatives in Congress.

CHARLES H. BABCOCK,
Speaker pro tempore of the House of Representatives.

JACOB MUELLER,
President of the Senate.

Adopted February 20, 1872.

THE STATE OF OHIO, *Office of the Secretary of State:*

I, Isaac R. Sherwood, secretary of state of the State of Ohio, do hereby certify that the foregoing is a true copy of a joint resolution therein named, passed by the general assembly of the State of Ohio, on the 20th day of February, A. D. 1872, taken from the original rolls on file in this office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of this office, at Columbus, the 20th day of March, A. D. 1872.

ISAAC R. SHERWOOD,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 155.

AMENDMENT OF ORGANIC ACT OF UTAH.

MEMORIAL

OF

THE LEGISLATURE OF UTAH,

PRAYING FOR

An amendment of the organic act of that Territory.

APRIL 1, 1872.—Referred to the Committee on the Territories and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Utah, respectfully represent to your honorable body, that whereas the governor is appointed by the President of the United States, not from among the people of this Territory, but from abroad, and is generally a stranger to the people and unacquainted with their customs and necessities, and therefore not qualified to judge of their legal requirements; and whereas the unqualified veto-power of the governor, as bestowed in section two of the organic act of this Territory, is often injurious and detrimental to the citizens thereof, and, we submit, incompatible with a republican form of government; and whereas section six of said organic act requires that "all laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and if disapproved shall be null and of no effect;" your memorialists would therefore pray your honorable body either to so amend sections two and six of the organic act of this Territory as to make it unnecessary for the laws passed by the legislative assembly to be submitted to the governor for his approval before they shall be of force, thus making the organic act of this Territory to conform, in this particular, to the organic act of the Territory of Oregon, after which it was copied, or to grant the usual parliamentary right to pass all laws over the governor's veto by a two-thirds vote.

And, as in duty bound, your memorialists will ever pray.

LORENZO SNOW,
President of the Council.
ORSON PRATT, SR.,
Speaker of the House of Representatives.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 156.

UNIVERSITY IN MONTANA.

JOINT MEMORIAL

OF THE

LEGISLATURE OF MONTANA TERRITORY,

PRAYING

For a grant of land for the establishment of a university therein.

APRIL 1, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative council and house of representatives composing the legislative assembly of the Territory of Montana, would respectfully urge upon your early attention and favorable consideration the situation and necessities of this distant Territory in respect to its total lack of higher educational advantages.

Our population is widely scattered, except in a few favored localities while most of them are struggling under heavy burdens of expense and taxation incident to founding new homes in a wilderness, and setting in motion the wheels of local government. Yet conscious that the present and future welfare of Montana, its productive capacities, its rapid and healthy development, its freedom from pauperism and crime, depend upon the education of its citizens, and those who are to become such, by the time we may seek admission to the Union as a State, our people have zealously adopted the principle of universal education, and have enacted laws to carry the same into effect. The burdens necessary to give a common-school education to every person within the limits of this Territory they have cheerfully assumed and willingly bear; but they feel the necessity of a university, which can supply its teachers and afford training to the members of the learned profession, and especially to men of science, who may devote themselves to developing the best natural, mineral, and agricultural resources of this Territory.

The heavy outlay necessary to supply anything adequate to their wants in this respect impels them, through us, to ask that you will, in accordance with your beneficent policy, heretofore so generously and generally applied in grants of public lands for universities and agricultural colleges in other States and Territories, make a similar grant to Montana, proportioned not only to its necessities but to its large capacities and future prospects, under such restrictions as to custody and dis-

position of lands and the funds arising therefrom as your wisdom may suggest.

And so your petitioners will ever humbly and hopefully pray, &c.

HARRY R. COMLY,
Speaker of House of Representatives.
A. H. MITCHELL,
President of the Council.

A true copy of the original memorial, as passed and on file in my office.
[SEAL.]

J. E. CALLAWAY,
Secretary Montana Territory.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 157.

SCHOOL LANDS IN MONTANA.

JOINT MEMORIAL

OF THE

LEGISLATURE OF MONTANA TERRITORY,

PRAYING

For authority to grant temporary leases of the school lands therein as an aid to public schools.

APRIL 1, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the council and house of representatives of the Territory of Montana, most respectfully represent that it is very desirable, in order to increase the funds available for the support of the schools in said Territory, that the county superintendents of common schools in the several organized counties of the Territory be authorized to lease any or all of the lands situated in their respective counties which have been by act of Congress reserved to the Territory for school purposes, excepting timber lands, for terms not exceeding two years, upon such conditions, under such restrictions, and with such security against needless waste or injury as may seem necessary to your honorable body; and your memorialists most respectfully ask, in behalf of the educational interests of the Territory, for such legislation by your honorable body as will, under the proper safeguards, authorize the execution of such leases as aforesaid.

HARRY R. COMLY,
Speaker of House of Representatives.
A. H. MITCHELL,
President of the Council.

A true copy of the original memorial as passed and on file in my office.

[SEAL.]

JAS. E. CALLAWAY,
Secretary Montana Territory.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 158.

SALARIES OF TERRITORIAL OFFICERS.

JOINT MEMORIAL

OF THE

LEGISLATURE OF MONTANA TERRITORY,

PRAYING

For an increase in the salaries of Federal officials therein.

APRIL 1, 1872.—Referred to the Committee on the Territories and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the council and house of representatives of the Territory of Montana, most respectfully represent that the salaries now provided by the laws of the United States for the officers of this Territory are inadequate, in consequence of the extraordinary expenses of traveling and living in this Territory; that it is impossible to procure the services of competent men in our legislative halls, and the necessary attachés and employés thereof, for the salaries now paid them by the Government. That, conscious of these facts, the people of the Territory have for a long time provided extra compensation for a large portion of such officers, as may be seen by their statutes; that the same has become a heavy burden upon them.

Wherefore your memorialists humbly pray that the salaries of our executive and the supreme judges be increased to five thousand dollars each per annum. That the salary of our territorial secretary be increased to four thousand dollars per annum, and the salaries of the members of our legislature, and the necessary attachés and employés thereof be increased at least one hundred per cent., and that pay be be provided for pages, firemen, and all necessary clerks and assistants.

And your memorialists will ever pray, &c.

HARRY R. COMLY,
Speaker of the House of Representatives.
A. H. MITCHELL,
President of the Council.

A true copy of the original memorial, as passed and on file in my office.

[SEAL.]

JAS. E. CALLAWAY,
Secretary Montana Territory.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 159.

HARBOR OF REFUGE, NORTH CHEBOYGAN RIVER.

JOINT RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

URGING

Appropriation to complete harbor of refuge at mouth of Cheboygan River.

APRIL 1, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Whereas the General Government has expended ten thousand dollars during the past year in dredging out and enlarging the harbor of refuge at the mouth of the Cheboygan River, in the Straits of Michilimackinac; and whereas the great and rapidly increasing lumber and commercial interests of the citizens of Cheboygan County and vicinity demand immediate and increased harbor facilities to enable them to ship their lumber and other products on an equal footing with citizens of other portions of our State: Therefore,

Resolved, (the senate concurring,) That our Senators and Representatives in Congress be requested to use all honorable means to procure the necessary appropriation of money to secure the immediate completion of said harbor, according to the plans and specifications of the Government engineers.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing preamble and resolution to each of our Senators and Representatives in Congress.

MORGAN BATES,
President of the Senate.
J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE,
Lansing, Michigan, March 23, 1871.

Approved:

HENRY P. BALDWIN.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 160.

REMOVAL OF TROOPS FROM SOUTH CAROLINA.

JOINT RESOLUTION

OF THE

LEGISLATURE OF SOUTH CAROLINA,

ASKING

That the Federal troops be not removed from that State.

APRIL 1, 1872.—Referred to the Committee on Military Affairs and ordered to be printed.

Whereas all the counties of this State in which United States troops are stationed are in a comparative state of quiet; and whereas we believe that the present peaceful condition of said counties is entirely attributable to the presence of United States troops, and would be jeopardized by the withdrawal of any portion of said troops: Therefore,

Be it resolved by the house of representatives, (*the senate concurring*,) That our Senators in Congress be instructed, and our Representatives requested, to use their immediate and most earnest endeavors to secure the continuance in the State of the force now stationed here; and

Resolved, That the clerk of the house of representatives be, and he is hereby, instructed forthwith to forward copies of this resolution to our Senators and members of Congress.

Adopted March 11, 1872.

A true copy:

A. O. JONES,
Clerk House Representatives.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 161.

INDIAN AFFAIRS IN ARIZONA.

JOINT RESOLUTIONS

OF

THE LEGISLATURE OF CALIFORNIA,

RELATING TO

Indian affairs in the Territory of Arizona.

APRIL 1, 1872.—Referred to the Committee on Military Affairs and ordered to be printed.

Whereas we are fully assured that the following statements are true: That the inhabitants of the Territory of Arizona are now, and for years past have been, the victims of the most cruel outrages at the hands of the Apache Indians; that hundreds of them, including women and children, have been murdered by these savages within the last few years; that neither homes nor property in that Territory, outside the principal towns, are safe from savage incursion; that in but exceptional places can any high road be traveled without great danger; that many of the citizens of our own State, while there on business, have fallen victims to these Indians; that at no time in the history of that Territory have the Indians been more hostile, or the lives and property of the people less safe, than within the past two months; that the nation is rich enough to afford, and strong enough to enforce, protection to its people living in its own territory and under its own flag, as well as to those abroad in other lands; that for the murder of the fewest number of its citizens, who have been slain by these savages in Arizona in any two months of the last two years, the United States would have declared war against every power in Europe had its citizens been so murdered there for want of proper protection from European powers; that the feeling and belief is universal on the part of the people of this State, and, we believe, of the Pacific slope, that when General Crook was sent to Arizona, he was the right man in the right place; that he is as humane as energetic, and that if allowed sufficient means, and given the discretion to which his experience in the management of Indian affairs entitle him, and not interfered with in his operations, he will, in a brief period, arrest this reign of terror and blood, and give security to the long-suffering people of this Territory; and whereas we do most seriously believe that, in all the land, no such prompt and efficient measures are required for the protection of our people as in the Territory of Arizona: Therefore,

Be it resolved by the senate, (the assembly concurring,) That it is the duty

of the Government of the United States to give the most prompt and efficient protection to the people of Arizona against the Apache Indians; that all attempts to treat with or otherwise to appease them, until they are made to feel the power of the Government, will prove futile in the future, as they have in the past, and must result only in encouraging these savages to continue deeds of carnage.

Resolved, That in no other way can this protection be so promptly and efficiently extended to our suffering brethren in Arizona as by furnishing General Crook with ample means, and by giving him the largest discretion in the course to be pursued toward the savages.

Resolved, That the President of the United States be, and he is hereby, urged and implored to prevent further interference with the military operations of General Crook, otherwise than by aiding his designs, until these savages are subdued and the people of Arizona are made secure in their lives, homes, and property.

Resolved, That his excellency the governor of this State be requested to telegraph these resolutions and preamble to the same to the President of the United States; that he cause to be sent copies of the same to each of the Senators and Representatives in Congress of the Pacific States and Territories, and to each of the governors of the same, and that our Senators in Congress be instructed, and our Representatives requested, to urge upon the Government at Washington such action in the premises as is indicated by these resolutions.

J. T. FARLEY,
President pro tempore of the Senate.
T. B. SHANNON,
Speaker of the Assembly.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 162.

SOLDIERS HOMESTEADS.

MEMORIAL

OF THE

LEGISLATURE OF MINNESOTA,

RELATIVE TO

Soldiers' homesteads.

APRIL 1, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

The memorial of the legislature of the State of Minnesota respectfully represents, that in accordance with a ruling of the Commissioner of the General Land-Office, a large number of volunteers who served during the late war, and availed themselves of the provisions of the amendatory homestead act of 1864, under the impression that the time from their entering such homestead to the expiration of their term of service would be deducted from the term of five years fixed for the consummation of homesteads, are now unable to furnish the required proof of actual occupancy of the same while they remained in the service, and have thereby forfeited their homesteads.

Your memorialists would therefore respectfully ask that the homestead law be so modified as to relieve such enlisted persons of the forfeiture of their homestead rights, by allowing them to make their final proof and receive their patents.

Your memorialists would further represent that the act of Congress of July, 1870, granting soldiers of the late war the right to select homesteads of 160 acres, should be so amended as to extend the privileges of said act to volunteers who had, prior to the passage of the same, availed themselves of the provisions of the acts of 1862 and 1864 by taking 80 acres of land, and who are now excluded from the benefits of the act of 1870 by the ruling that in consequence of the former filing they have exhausted their homestead right.

Approved February 20, 1872.

STATE OF MINNESOTA, *Office of the Secretary of State:*

I certify that the foregoing has been compared with the original on file in this office and is found to be a true copy of the same.

Witness my hand and the great seal of the State this 7th day of March, A. D. 1872.

[SEAL.]

S. P. JAMISON,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 163.

D. C. GIDDINGS vs. W. T. CLARK.

PAPERS

IN THE CASE OF

GIDDINGS vs. CLARK,

THIRD CONGRESSIONAL DISTRICT OF TEXAS.

APRIL 1, 1872.—Ordered to be printed.

PAPERS OF CONTESTANT.

No. 1.—*Notice of Contest.*

WASHINGTON, D. C., *December* 11, 1871.

SIR: Having been informed that a pretended certificate of election, issued on the 15th day of November, A. D. 1871, by E. J. Davis, governor, and J. E. Oldright, acting secretary of state, of the State of Texas, has been delivered to you, which certificate assumes that you have been elected Representative in the Congress of the United States from the third congressional district of the State of Texas, based upon the result of an election held in said district on the 3d, 4th, 5th, and 6th days of October, A. D. 1871, you are hereby notified, in the event of your being admitted to a seat in Congress under said pretended certificate, and in addition to notice heretofore served upon you October 31, 1871, November, 3, 1871, and November 10, 1871, that I will contest the seat in Congress, upon the following grounds, to wit:

First. That I received a majority of the legal votes cast at said election in said third district of Texas, as is shown by the schedule attached to your certificate, and by the certificates of the judges of election.

Second. That legal votes for me offered by legal electors in Austin, Galveston, and other counties in said district, to the judges of election in said counties, were not received as such by said judges, but classed by said judges as rejected votes, and excluded by the judges of election for said counties from the returns.

Third. The returns of the judges of election of Harris County are fraudulent in seeking to count for you 621 votes of persons who did not appear or offer to vote at said election.

Fourth. That votes polled in the counties of Hill, Navarro, Grimes, Harris, and Fort Bend for me, and bearing my name, were, during the election and before the votes were counted, fraudulently taken out of the ballot-boxes of said counties, and others bearing your name fraudulently placed in their stead, and so counted by the judges in making their returns of the election.

Fifth. That the returns made by the judges of election of the several counties in said district to the secretary of state of the State of Texas show that a majority of the legal votes cast were for me and in my favor.

Sixth. That intimidation was used by E. J. Davis, governor, and the State police, under his command, to deter voters from registering and voting, and that electors desiring to vote for me were prevented from so doing, and forced to vote for you.

Seventh. That the registrars of Harris, Hill, Bosque, Burleson, Grimes, Robertson, Limestone, McLennan, Freestone, Falls, Brazos, and other counties refused to register persons legally entitled thereto under the constitution and laws of the State of Texas.

Eighth. That in Robertson County, by a conspiracy between the registration officers, Colonel Gillespie, Byron Mahlon, Edmond J. Davis, and others of your known and active supporters, 100 fictitious names were registered, and certificates of such registration delivered to such as, by a like conspiracy, would receive them; and all of such 100 fraudulent and fictitious names were voted for you; and said conspiracy was upon the assurance of said Gillespie, and others of your friends, that if the registration officers should be detected in the fraud they would be pardoned; and the assurance was moreover given that such a conspiracy for the fraudulent manufacture of voters was going on all over the State, with like assurance of pardon for the offenders.

Ninth. That the returns of said election, made by the judges of election of Bosque, Brazos, Limestone, and Freestone Counties, have been fraudulently excluded by E. J. Davis, governor, and J.E. Oldright, acting secretary of state, of the State of Texas, in compiling the returns of election from the several counties in said district.

Tenth. That E. J. Davis, governor, and J. E. Oldright, acting secretary of state, of the State of Texas, have fraudulently excluded from the compilation and certified returns of the several counties in said district 2,322 legal votes cast for me in the county of Washington, and have willfully and corruptly made false returns of the votes cast in said county at said election,

Eleventh. That Edmond J. Davis, governor of the State of Texas, and J. E. Oldright, acting secretary of state, have fraudulently changed the result of said election in said third congressional district of Texas, and fraudulently issued to you the false and pretended certificate of election upon which you pretend to be the Representative elect from said third congressional district of Texas.

Very respectfully, your obedient servant,

D. C. GIDDINGS.

General W. T. CLARK.

DECEMBER 11, 1871.

Served the original copy upon General W. T. Clark, of which the within is a true copy.

N. G. ORDWAY,
Sergeant-at-Arms, House of Representatives.

No. 2.—*Answer to notice of contest.*

WASHINGTON, D. C., *January* 12, 1872.

SIR: For answer to the notice of contest served on me by you on the 12th day of December, 1871, in which you claim my seat in the Congress

of the United States from the third congressional district of the State of Texas, I state that I did not answer when they were received, have not answered, and do not now answer the notices which you prematurely served on me October 31, 1871, November 3, 1871, and November 10, 1871, because I did not then have the certificate of election, nor had any one else, because, in fact, it was not issued until the 15th day of November, 1871, and there was therefore nothing to contest until after said 15th day of November, and when I received said certificate.

First. To your first averment I answer: I deny that you received a majority of the legal votes cast at said election in said third district of Texas. I deny also that the schedule attached to my certificate shows any such majority for you, or that the certificates of the judges of election show any such majority for you, but the contrary is true in every particular.

Second. I deny that legal votes offered for you by legal voters or electors, in Austin, Galveston, and other counties in said district, to the judges of election in said counties, were not received by said judges, or classed by said judges as rejected votes, or excluded by the judges of elections for said counties from the returns. On the contrary, I aver that the votes rejected, if any were rejected, which I deny, were illegal votes, and that in the counties of Galveston and Austin unqualified electors were permitted, through your connivance and that of your friends, to register and vote illegally for you, against the statutes in such case made and provided.

Third. I deny that the returns of the election of Harris County are fraudulent in any particular. I aver, and expect to prove, that 621 votes of qualified electors not voting are entitled to be received, and should be by law received and counted for me, they having appeared and offered to vote for me, but were prevented from voting by acts of intimidation, fraud, and violence, incited by you and your known active supporters and friends. I further aver that qualified electors were, by your influence and that of your friends, intimidated from voting in said county of Harris; that you and your active supporters caused the illegal arrest of the registrar and board of election in said county during the voting, and by violence and intimidation broke up the election in said county, thereby depriving me of 600 votes which would have been cast for me.

Fourth. I deny that votes polled in the counties of Hill, Navarro, Grimes, Harris, and Fort Bend, for you, and bearing your name, were, during the election and before the votes were counted, fraudulently taken out of the ballot-boxes of said counties, and others, bearing my name, fraudulently placed in their stead, and so counted by the judges in making their returns of the election. I deny, specifically, that any vote bearing your name was, in either of said counties, fraudulently taken from the ballot-box in said counties, and a vote bearing my name placed in the box, as averred by you in the fourth section of your notice of contest.

Fifth. I deny that the returns made by the judges of election, in the several counties in the said district, to the secretary of state of the State of Texas, show that a majority of the legal votes cast were for you and in your favor. On the contrary, I aver that the returns made by the judges of election, as aforesaid, show that a majority of the legal votes cast were for me and in my favor.

Sixth. It is not true, as you allege, that intimidation was used by E. J. Davis, governor, and the State police under his command, to deter voters from registering and voting. It is not true that electors, desiring

to vote for you, were prevented so doing, and forced to vote for me. On the contrary, I aver, and expect to prove, that by murder, outrage, armed violence, fraud, intimidation, threats of loss of employment, bribery, discharge from employment, all of which acts were either committed by you and your known active supporters and friends, or countenanced and encouraged by you and your friends, the voters of said district were prevented from registering and voting for me, and that electors, desiring to vote for me, were forced by said acts of violence and threats to vote for you.

Seventh. It is not true, as you allege, that the registrars of Harris, Hill, Bosque, Burleson, Grimes, Robertson, Limestone, McLennan, Freestone, Falls, Brazos, and other counties, refused to register persons legally entitled thereto under the constitution and laws of the State of Texas.

Eighth. It is not true, as you allege, that in Robertson County, by a conspiracy between the registration officers, Colonel Gillespie, Byron Mahlon, Edmond J. Davis, and other of my known and active supporters, 100 fictitious names were registered; it is not true that certificates of registration were delivered to any one with any such fraudulent intent, nor were all or any such names voted for me. It is not true that there was any conspiracy, or any assurance or promise, on the part of Gillespie, or any one else; nor is it true that any such conspiracy was going on all over the State, as you allege. I deny specifically each and every allegation in the eighth section of the notice of contest. On the contrary, the only conspiracy in fact was that organized by your known supporters and friends throughout the State, with a view, by murder, outrage, armed violence, intimidation, fraud, bribery, threats, and corruption, to prevent a free and fair election in said State and district.

Ninth. It is not true that the returns of said election made by the judges of election of Bosque, Brazos, Limestone, and Freestone Counties have been fraudulently excluded by E. J. Davis, governor, and J. E. Oldright, acting secretary of state, in compiling the returns of election from the several counties in said district. On the contrary, it is true that the returns of the counties of Bosque, Brazos, Limestone, and Freestone were properly excluded from the returns by the returning officers, to wit: the governor, the secretary of state, and the attorney general, and that they acted strictly in compliance with the law of said State in compiling said returns.

Tenth. It is not true, as alleged, that E. J. Davis, governor, and J. E. Oldright, acting secretary of state, have fraudulently excluded from the compilation of, and certified returns of the several counties in said district, 2,322 legal votes cast for you in the county of Washington, and have willfully and corruptly made a false return of the votes cast in said county at said election. On the contrary, it is true that, by a conspiracy organized in said county by your known friends and active supporters, the registration of illegal voters was secured, and illegal votes cast for you; that the proper sworn officers of election were forced from the board of election by said conspirators; that a separate ballot-box, called by these conspirators "the white man's box," was set up by them with your connivance, knowing the same to be in open violation of law; that said illegal and unauthorized box was presided over by a person unauthorized to receive or canvass the votes; that said box was in a separate place and not under the supervision of the legal board of election; that in this illegal and unauthorized box were placed the votes aforesaid claimed by you, and which you claim should be counted for

you, and which the returning officers, in compliance with the law, rejected. I further aver that to secure the success of this high-handed outrage the conspirators aforesaid, your friends, had armed men in readiness to enforce the use of said illegal box; that the telegraph wires were cut, so that no communication could be had with the governor of the State, or any officer having authority and power enough to suppress the outrage and secure a free, fair, and peaceable election; that at least 2,000 qualified electors in said county were thus prevented from voting for me as they desired to do.

Eleventh. It is not true, as you allege, that Edmond J. Davis, governor, and J. E. Oldright, acting secretary of state, have fraudulently changed the result of said election in said third congressional district of Texas, and fraudulently issued to me any false and fraudulent certificate of election. On the contrary, it is true that the governor of the State, the secretary of state, and the attorney general, officers provided by law to compile the returns of election in said district, have strictly complied with the statute in such case made and provided, and the certificate of election held by me is in accordance with the law.

Twelfth. And for further answer I aver, and expect to prove, that in the county of Grimes, armed violence, intimidation, threats, bribery, and corruption were resorted to by your known friends and active supporters, on the days of registration and election, to prevent qualified electors from registering and voting, who would have otherwise registered and voted for me, and who offered so to register and vote; and further, that by the threats, intimidation, and armed violence of your known friends and supporters, the election in said county of Grimes was broken up in a great degree; the registrar, in fear of personal violence, driven from the polls, and at least 1,000 legal voters forced away from the polls who offered and desired to vote for me. I aver, also, that in order to intimidate the voters in said county your known friends and supporters provided a separate ballot-box, called "the white man's box," threatening with loss of employment and bodily harm all who refused to vote for you in said "white man's box;" that armed men scoured the said county, deterring voters from the polls who desired to vote for me with threats of personal violence, loss of employment; all this in violation of law and in defiance of the constituted authorities of said State.

Thirteenth. I aver that in the counties of Bosque, Hill, Navarro, Falls, McLennan, Limestone, Freestone, Washington, Robertson, Madison, Montgomery, Burleson, Brazos, Harris, Walker, Wharton, Matagorda, Brazoria, Galveston, and Austin, qualified electors were by your known friends and active supporters prevented from registering and voting; that said electors so prevented from voting desired to vote for me; that by armed violence, intimidation, fraud, corruption, bribery, threats of bodily harm and loss of employment, these, your friends, and active supporters, did prevent voters in the several counties aforesaid from registering and voting, because they expressed a desire to vote for me.

Fourteenth. I further aver that your known friends and active supporters did, throughout the third district of Texas, by violence, outrage, murder, and intimidation, produce a system of terrorism such as to render impossible a free, fair, and peaceable election in said district; that you and your friends advised those men of violence and your supporters to carry the election "peaceably if they could, forcibly if they must;" and that you and your friends advised your party to "go to the polls armed, and to camp around them;" and all this I am ready to verify.

Fifteenth. I also aver that in the counties of Limestone and Freestone

an armed mob, your friends and supporters, took the law into their own hands, murdered innocent men, drove many from their homes, seized the registrars and board of election, took possession of the ballot-boxes, filled them with votes for you, and prevented qualified electors from voting for me; that this armed mob of over 600 men held possession of the counties aforesaid, cutting the telegraph wires, preventing any communication with the governor of the State, subordinated the civil authority, and in fact held the counties in open armed rebellion during the election; that this armed disturbance and rebellion in Limestone County, brought in and sustained by your friends and supporters, so intimidated the voters of the adjoining counties that they were in fear of their lives, and did not dare to go to the polls and vote as they desired to do.

Sixteenth. For further answer, I attach and make part hereof, marked Exhibit A, a copy of the certificate of election issued by the governor of the State to me.

Very respectfully, your obedient servant,

W. T. CLARK.

Colonel D. C. GIDDINGS.

EXHIBIT A.

GOVERNOR'S OFFICE, *Austin*, *November* 15, 1871.

This is to certify that, on comparison of the returns of votes cast at an election held in the third congressional district of the State of Texas, on the 3d, 4th, 5th, and 6th of October, A. D. 1871, provided for by joint resolution of the legislature of said State of Texas, approved May 2, 1871, I find that the Hon. W. T. Clark was duly elected to represent the said congressional district of the State of Texas in the Congress of the United States for the term commencing on the 4th day of March, A. D. 1871, and ending on March 3, 1873.

In giving this certificate I wish to call attention to the attached certified statement of the vote cast in the third district as returned, with grounds for rejecting certain returns. This is explanatory of my reasons for giving the foregoing certificate of election. According to my opinion, the numerous irregularities and instances of fraud and violence during the election in the third district, reported and proved to my satisfaction, would rather warrant a new election than the giving of a certificate to either party. I have felt constrained by my interpretation of the provisions of the State law on the subject of elections to reject many returns, and would have thought it more just to regard the election as a nullity, yet the act of Congress of May 31, 1870, section 22, seems to require that I should give a certificate of election to one of the candidates.

In testimony whereof I have caused the great seal of the State to be affixed, at the city of Austin, the date herein first above written.

[SEAL.]

EDWARD J. DAVIS,
Gorernor.

By the governor:

J. E. OLDRIGHT,
Acting Secretary of State.

Statement of the number of votes cast in the third district for candidates for Congress at an election held therein on the 3d, 4th, 5th, and 6th October, 1871.

Counties.	W. T. Clark.	D. C. Giddings.	L. W. Stevenson.	Remarks.
Austin	1,322	1,348	6	
Bosque	77	457	.....	Rejected. No official returns were received.
Brazoria	850	386	30	
Brazos	1,050	1,233	.....	Rejected. The tickets were marked with numbers, contrary to provisions of section 19, chapter 78, general laws, fall session, 12th legislature, 1870, thereby operating as a scrutiny upon the votes and a restraint upon the freedom of voters. Further, that 49 persons of foreign birth had been permitted to register and vote without legal proof of naturalization.
Burleson	478	829	.....	
Falls	960	931	2	
Fort Bend	1,207	345	.....	
Freestone	780	1,147	.....	Rejected. Acts of violence and intimidation and armed disturbance have been shown to have materially interfered with the purity and freedom of the election, thereby preventing such a number of the qualified electors therein from voting as would have changed the result of the election in that county if they had been permitted freely to vote. Further, that among those who voted at that election 163 persons had been permitted to register by proxy, contrary to law.
Galveston	304	1,693	329	
Grimes	1,698	1,293	.....	
Harris	2,033	1,621	.....	Six hundred and twenty-one voters reported as having been deterred from voting for W. T. Clark, as desired by them, not counted, because though those names appear on registration list, and though it is likely that some or all of them desired to vote as alleged, it is considered that under the act of Congress the application must come from the voters themselves, and this they have not made.
Hill	455	649	.....	
Leon	598	1,027	1	
Limestone	28	1,153	1	Rejected. Reasons same as for Freestone, except as regards the 163 voters.
Madison	161	429	.....	
Matagorda	304	151	3	
McLennan	1,162	1,520	.....	
Milam	299	976	.....	
Montgomery	543	596	.....	
Navarro	981	1,000	.....	
Robertson	1,144	1,373	13	
Walker	848	720	18	
Washington	2,535	110	.....	The votes received at the "white man's" place of voting—at what was called "the white man's ballot-boxes"—are rejected because two voting places are not allowed by law, and because that box was not presided over by even one lawful officer. Also because 458 aliens were registered on declaration of intention to become citizens, made by them in vacation, before a clerk, and not in term time, before a competent court, of whom all or nearly all voted at what was called "the white man's box," and for other sufficient causes. The vote cast at the lawful box is alone counted.
Wharton	525	85	7	
Total	18,407	17,082	409	

DEPARTMENT OF STATE,
Austin, November 14, 1871.

I, J. E. Oldright, acting secretary of state for the State of Texas, hereby certify that the foregoing is a true copy taken from the records of this office.

Witness my hand and official seal, at office in the city of Austin, the date above written.

[L. S.]

J. E. OLDRIGHT,
Acting Secretary of State.

Served on 12th day January, 1872, at 7.50 p. m.

No. 3.—*Resolution of the House of Representatives, passed January 10, 1872.*

Resolved, That W. T. Clark has the *prima facie* right to a seat as Representative from the third congressional district of the State of Texas, and is entitled to take the oath of office as a member of this House, without prejudice to the right of any person claiming to have been elected thereto to contest his right to said seat upon the merits.

GEO. F. HOAR,
For the Committee.

Certified copy of resolution of the House of Representatives, passed January 12, 1872.

FORTY-SECOND CONGRESS, SECOND SESSION.

IN THE HOUSE OF REPRESENTATIVES,
January 12, 1872.

On motion of Mr. McCrary, from the Committee on Elections,

Resolved, That in the contested-election case of Giddings *vs.* Clark, from the third congressional district of Texas, the sixty days allowed by law, in which to take testimony, shall commence on the 1st day of February next, and shall close sixty days thereafter; that the testimony shall be confined to the issues presented by the pleadings, and may be taken before any officer authorized by law to take depositions in the State of Texas; either party may take testimony in the District of Columbia, before any officer authorized, giving the opposite party, or his attorney, three days' notice of time and place, provided no mileage shall be paid any such witnesses.

Attest:

EDW'D McPHERSON,
Clerk.

No. 4.—*Agreement as to attorneys.*

GIDDINGS *vs.* CLARK. } Contested-election case from third congressional district of Texas.

It is agreed by and between the parties to this contest that Hon. George W. Paschall, of Washington, District of Columbia, is the attorney of contestant, upon whom all notices to take testimony in the District of Columbia may be served; all notices to take testimony in Texas shall be served upon contestant, and that J. C. C. Wench, esq., of Houston, Texas, and R. M. Corwine, of District of Columbia, the attorney of W. T. Clark, upon whom all notices to take testimony in Texas shall be served, that all agreements made by either of said attorneys shall be binding upon the parties hereto.

D. C. GIDDINGS.
W. T. CLARK.

No. 5.—*Letter appointing attorneys.*

WASHINGTON, D. C., *January* 15, 1872.

COLONEL: In order to facilitate the taking of testimony in case of Giddings *vs.* Clark, in Texas, I beg to hand you the following list of my attorneys, on whom you can serve notice: T. G. Davidson, Brenham, Texas; C. Colwell, Navasoto, Texas; A. C. Rogers, Houston, Texas; A. J. Evans, Waco, Texas; J. B. Dickinson, district attorney, Waco, Texas.

Very respectfully,

W. T. CLARK.

Colonel D. C. GIDDINGS.

No. 6.—*Notice to take depositions in Bosque County.*

D. C. GIDDINGS *vs.* W. T. CLARK. } Forty-second Congress, second session. Contested election from third congressional district, Texas.

To A. J. Evans, esq., and J. W. Dickinson, district attorney, or either of them, attorneys for W. T. Clark in the above entitled cause:

You will take notice that on Thursday, the 22d day of February, A. D. 1872, and continuously after said day until finished, at the store-house of J. W. Smith & Son, in the town of Meridian, Bosque County, Texas, before Thomas A. McSpadden, a justice of the peace and notary public for the county of Bosque and State aforesaid, I shall proceed to take the testimony of the following-named witnesses, and that of such others as may voluntarily appear, to subtantiate the allegations embraced in notices of contest heretofore served, and to be used as evidence on the final hearing of this cause, to wit, Philip Howard, Decatur Greer, Matthew Greer, Jonathan James, Henry Fossett, Sam Fossett, T. T. Angel, James M. Anderson, F. P. Wood, John Biffle, Peter Robinson, S. S. Nichols, and such others as may voluntarily appear, when and where you can appear and take such action as may be deemed by you right, proper, and necessary in the premises.

D. C. GIDDINGS,
By COKE, HERRING & ANDERSON,
Attorneys.

WACO, TEXAS, *February* 8, 1872.

I hereby certify that on the 8th day of February, A. D. 1872, notice was served on the within by a delivery of a true and exact copy of the notice to J. W. Dickinson, district attorney.

DAVID H. HEWLETT.

Subscribed and sworn to before me this 20th day of February, 1872.

GEO. W. JACKSON,
United States Commissioner, Western District of Texas.

No. 7.—*Depositions taken in Bosque County.*

D. C. GIDDINGS *vs.* W. T. CLARK. } Forty-second Congress, second session, House of Representatives. Contested election from third congressional district of Texas.

Be it known that on this Thursday, the 22d day of February, A. D. 1872, before me, the undersigned authority, Thomas A. McSpadden, a duly commissioned and qualified justice of the peace for beat No. 4, in Bosque County, State of Texas, and *ex-officio* notary public, and authorized by the laws of Texas to take depositions, sufficient evidence appearing to me that notice of time, place, and names of witnesses, and name of officer before whom such testimony would be taken, having been served by the attorney of plaintiff in the above-entitled cause, to wit, D. C. Giddings, said attorney being David H. Hewlett, upon the attorney of defendant in the above entitled cause, to wit, W. T Clark, said attorney being J. W. Dickinson, district attorney; all of which proceedings appearing right, just, and proper; and the said plaintiff being represented in his own proper person by his attorney, to wit, David H. Hewlett, and there being no person appearing to represent said defendant, the following proceedings were had, embraced and set forth in the foregoing answer, being the deposition of the witness whose name is set forth as interrogated by the attorney of said plaintiff, the questions and answers being fully set forth and embraced in the pages numbered from one to twenty-eight respectively.

In testimony of which I hereunto set my hand and affix my notarial seal at Meridian, in the county of Bosque, State of Texas, on this the 22d day of February, A. D. 1872.

[SEAL.] THOS. A. McSPADDEN,
J. P., Beat No. 4, Bosque County, and ex-officio Notary Public.

PHILIP HOWARD, witness, appearing and being duly qualified, testifies to the questions and depositions set forth fully, as follows, to wit:

Question 1. Where do you reside?—Answer. In Meridian, Bosque County.

Question 2. How long have you resided here?—Answer. Seventeen years.

Question 3. Will you state from the best of your recollection and knowledge the manner in which the registration was conducted before the last congressional election, whether fair, impartial, or otherwise?—Answer. Of my own knowledge I know nothing to the contrary, but that the registration before the last congressional election was fair.

Question 4. Were you an officer of the board of revision and appeals?—Answer. I was president of the board.

Question 5. To which political party did the board of revision and appeals?—Answer. Three democrats and two republicans.

Question 6. To which political party do you belong?—Answer. I am an old-line whig, but have been acting with the republican party since the war.

Question 7. State, if you know, how long each of said parties conducting the elections had been residents of this county.—Answer. M. S. Greer has lived in this county sixteen years; Peter Robinson, F. M. C., from twelve to fifteen years; Jno. James about the same time; J. H. Johnson about one year.

Question 8. What was the number of police on duty during the election?—Answer. None.

Question 9. Why were there none sworn in as a special police force to preserve order during the election?—Answer. The registrar came to me and proposed to swear in some persons to act as policemen, and I told him that I thought it unnecessary; that I knew the people of the county well, and did not think there would be any disturbance.

Question 10. Can you, as a republican, state whether Clark was the choice of the people for Representative in the third congressional district?—Answer. I cannot.

Question 11. Do you know of any act of intimidation by any person during registration or election?—Answer. I do not.

Question 12. Was the election order of Governor Davis observed during the election?—Answer. It was not.

Question 13. Why was not the order of the governor strictly observed?—Answer. District court being in session, during the election the district judge came to me and asked me if holding the court would disturb or interfere with holding the election; I told him it would not.

Question 14. Were there any arrests made or attempted to be made during the election?—Answer. None.

Question 15. State all you know about the removal of registrar or election officers during registration or election.—Answer. I know of none.

Question 16. Do you know of any change or removal made or contemplated being made at any time previous to the election; and if so, for what causes assigned?—Answer. I know of no causes and no change further than on the morning the polls were to be opened, Judge Thomas Ford came to me and showed a commission to himself as registrar, dated some months previous; said commission was signed by Governor Davis.

Question 17. State what Judge Ford said to you in relation to his commission, and also to his acting under it.—Answer. At the time Ford showed me his commission, he asked me what Biffle had done, whether he had registered everybody or not. I told him that he had registered everybody that had appeared before him. Ford said that it was all illegal, and wanted me to reject all that Biffle had registered. I stated that I should not do any such thing, because Biffle had made his return, and I had revised the list. If he was registrar, why did he not come forward and register? His reply was, that he had but lately received his commission.

Question 18. How long prior to the first day of the election did Ford's commission as registrar bear date?—Answer. About the 28th of August previous his commission was dated.

Question 19. Had Mr. Biffle any knowledge or intimation of his removal prior to the election, as you know of?—Answer. I do not know that he had.

Question 20. Had Mr. Biffle been guilty of any alleged irregularity or misconduct in the discharge of his duty as registrar, during his term of service?—Answer. I know of none, nor have heard of none.

Question 21. As a member of the republican party, do you believe the commission issued to Ford as registrar was made for any other purpose than of introducing an irregularity in the election returns for Bosque County, from your knowledge of the man (Ford) and the attendant circumstances in the case?—Answer. I cannot believe that Governor Davis would issue a commission from improper motives; but the convention at Houston might have imposed upon him.

Question 22. From your knowledge of the character and reputation of Ford, do you believe that he withheld the information from Biffle

that he was commissioned registrar of Bosque County, for the purpose of excluding the vote of Bosque County?—Answer. I do not believe that Ford received his commission until a short time before the election.

Question 23. Do you know of any instructions having been given by Governor Davis, Clark, or any other leading members of the republican party, as to who should vote or who should not?—Answer. I know of none, and believe there was none.

Question 24. Do you know the actual number of votes polled for each of the respective candidates, Giddings and Clark?—Answer. Clark received 77 votes, and Giddings received 457 votes.

Question 25. As an old-line whig and member of the republican party, do you believe that Clark was the choice of the bone and sinew of the party?—Answer. I do.

Question 26. Do you not believe that Clark was cut, dried, and forestalled for the election?—Answer. I do; as he was the only member that has ever done us any good.

PHILIP HOWARD.

Attest:

THOS. A. McSPADDEN,
Justice of the Peace and Notary Public, Bosque County, Texas.

JOHN A. BIFFLE, witness, being duly qualified, testifies to the questions in depositions set forth fully, as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. Five or six years.

Question 3. State whether, from your information, the last registration and election was conducted fairly and impartially or not?—Answer. They were.

Question 4. What office do you now hold?—Answer. The office of sheriff.

Question 5. By virtue of what authority do you hold the office of sheriff?—Answer. By virtue of appointment and commission from Governor Davis.

Question 6. Whom did you supersede in the office of sheriff?—Answer. Samuel Fossett.

Question 7. What is the date of your commission?—Answer. I do not remember, exactly; but think about the 1st of November, 1871.

Question 7. What is the political status of your predecessor, Sam. Fossett?—Answer. He is regarded as a democrat.

Question 8. Prior to your appointment to the office of sheriff, what office did you hold if any; by whom appointed and commissioned?—Answer. The office of registrar of Bosque County; appointed and commissioned by Governor Davis.

Question 9. As registrar of Bosque County, did you register the voters of Bosque County, as the law directs, at the county-seat of said county, prior to the last congressional election?—Answer. I did.

Question 10. Did you receive any official notification of your removal as registrar, and the appointment of Thos. Ford, prior to the election?—Answer. I had not, and have not up to this date.

Question 11. Did you see any act of violence or intimidation by any person during registration or election?—Answer. I did not see nor hear of any.

Question 12. What is the number of votes polled at the last congressional election for each candidate, Giddings and Clark?—Answer. Giddings, 457; Clark, 77.

Question 13. Were there any arrests made or attempted to be made during the registration or election?—Answer. None known to me.

Question 14. What was the conduct of the voters of Bosque County during registration and election?—Answer. Perfectly peaceable, quiet, and social.

Question 15. In whose care was the ballot-box kept during the election?—Answer. In mine; about my person during the day, and locked up in an iron safe during the night.

Question 16. Was the vote of this county at the last election as full and fair a test of its voting strength as at any other election ever held in the county?—Answer. It was.

Question 17. Do you believe that there was a single voter, either white or black, in Bosque County, deterred from voting at said election as he desired?—Answer. I do not.

JOHN A. BIFFLE.

Attest:

T. A. McSPADDEN,
Justice of the Peace, Bosque County.

M. S. GREER, witness, appearing and being duly qualified, testifies in depositions set forth fully, as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. Fourteen years.

Question 3. Were you one of the managers at the last congressional election?—Answer. I was.

Question 4. In what manner was the said election conducted, whether peaceably, quietly, or otherwise?—Answer. Considering the political excitement, I think the election passed off remarkably quiet, more so than they usually did before the war.

Question 5. Do you know of your own knowledge of any threats or intimidation by which any person was deterred from voting as he desired?—Answer. I do not, nor neither did I hear of any.

Question 6. Do you believe that the votes polled at said election was a full and fair test of the voting strength of Bosque County?—Answer. It was.

Question 7. Do you know of a removal of any registrar or election officer during election?—Answer. I do not.

Question 8. In whose custody was the ballot-box during the election?—Answer. In John A. Biffle's, the registrar.

Question 9. Were the election returns made out as the law directs?—Answer. They were.

Question 10. Did you have any intimation from any person whomsoever, any time during the election, that the vote of Bosque County would be rejected at Austin by those whose duty it was to compile the election returns?—Answer. I did.

Question 11. By whom was that intimation made?—Answer. By Philip Howard, president of the board of revision and appeals.

Question 12. What were his declarations made at the time as to the appointment of Ford as registrar, and the probable rejection of the vote of Bosque County?—Answer. He said that he believed that it was a concocted plan to throw out the vote of Bosque County; that old Tom Ford was mean enough to do anything, and I indorse his belief.

M. S. GREER.

Attest:

T. A. McSPADDEN,
Justice of the Peace and Notary Public, Bosque County.

J. H. JOHNSON, witness, appearing and being duly qualified, testifies to the questions in depositions set forth fully as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque county?—Answer. Nearly two years.

Question 3. What position did you hold, if any, during the registration and election at the last congressional election?—Answer. I was clerk both of registration and election.

Question 4. As clerk of registration, do you believe that registration was conducted fairly and without partiality?—Answer. I do.

Question 5. Were there any disturbances, arrests made, or attempted to be made, during registration?—Answer. None known to me.

Question 6. Were there any special police on duty during registration or election?—Answer. There was none.

Question 7. Do you know of any threats or intimidation used by any person by which any voter was deterred from voting as he chose?—Answer. I do not.

Question 8. Do you believe that the vote polled at said election was a fair test of the voting strength of the county?—Answer. I suppose it was.

Question 9. Of your own knowledge, do you know of any changes made in registrar or managers of election?—I do not.

Question 10. Did you have any intimation, either directly or indirectly, that there had been or would be any change in registrar, and that the vote of Bosque County would be rejected at Austin by the authorities whose duty it was to compile the election returns?—Answer. I had.

Question 11. By whom was that intimation given?—Answer. First, by District Clerk R. L. Nicholson, secondly, by Philip Howard, president of the board of revision and appeals.

Question 12. What declarations were made by the parties alluded to?—Answer. Nicholson remarked in my presence on the last day of registration that he had saw a document directed to "Thos. Ford, registrar of Bosque County." Philip Howard, in speaking of the same subject during the election, said that he believed it was a concocted plan to throw out the vote of Bosque County; that old Tom Ford was mean enough to do anything.

Question 13. To what political party does Philip Howard belong?—Answer. To the republican party.

Question 14. Were the returns of the election made as the law directs?—Answer. They were.

Question 15. What number of votes did the respective candidates, Giddings and Clark, receive at said election?—Answer. Giddings received 457 and Clark received 77.

JOHN H. JOHNSON.

Attest:

THOS. A. McSPADDEN,
Justice of the Peace and Notary Public, Bosque County.

R. L. NICHOLSON, voluntary witness, appearing and being duly qualified, testifies to the questions in depositions set forth fully as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. Fourteen years.

Question 3. What office did you hold during the last congressional election?—Answer. The office of district clerk.

Question 4. As district clerk, what were your duties in regard to managers of election?—Answer. To swear the managers to the correctness of their returns.

Question 5. Did you discharge that duty in said election? If so, state any conversation that occurred during your presence with the managers of election.—Answer. I did. I remarked to Philip Howard, president of the board of revision and appeals, that Clark's vote was smaller than I had anticipated. Howard said that it would take twenty or twenty-five Giddings votes to weigh as much at Austin as one Clark vote.

Question 6. Were you at any time ever registrar of Bosque County?—Answer. I was.

Question 7. When you were superseded, were you not duly notified, by the proper authority at Austin, of the fact?—Answer. I was.

Question 8. Were there any threats or intimidations made or used so as to deter any person from his voting as he chose?—Answer. None known to me.

Question 9. Do you consider the vote polled at said election a fair test of the voting strength of the county?—Answer. I do.

R. L. NICHOLSON.

Attest:

THOS. A. McSPADDEN,
Justice of the Peace and Notary Public, Bosque County.

SAMUEL FOSSETT, witness, appearing and being duly qualified, testifies to the questions in depositions set forth as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. Fifteen years.

Question 3. What office did you hold during the last congressional election?—Answer. the office of sheriff.

Question 4. Were you appointed or elected to fill that office?—Answer. I was elected.

Question 5. Was said election conducted fairly, peaceably, and quietly?—Answer. I have never been at an election at any time where better order was observed. There were no disturbances of any kind, nor even no political discussions. Every voter had free access to the polls, and deposited his vote as he chose, no questions being asked as to his political sentiments.

Question 6. Do you know of any act of violence, threat, riot, intimidation, armed disturbance, bribery, or corrupt influences that would interfere with the freedom of the election, either before or during registration and election?—Answer. I do not.

Question 7. What was the number of police on duty during the election?—Answer. There were none.

Question 8. Why were there none?—Answer. The registrar consulted me on the necessity of having some police. I told him that I was confident from the spirit of the people that there would be no disturbance, and that it would be an unnecessary expense to the county; in which opinion he concurred; consequently there were none sworn in.

Question 9. Did you know of change or removal of registrar, or removal of election officer, before or during the election?—Answer. I did not.

Question 10. Were you present at the time the votes were counted at said election?—Answer.

Question 11. State what conversation took place on the evening after the closing of the polls, Philip Howard, John A. Biffle, yourself, and others being present, in relation to the removal of John A. Biffle as registrar, and Tom Ford's appointment as registrar in his stead.—Answer. Biffle said he had never been notified of his removal—knew nothing of it, only what Howard had told him. Howard observed that Ford had been appointed, and he was afraid that they had, from their slyness, fixed up a plan to throw out the vote of Bosque County.

Question 12. What number of votes did the respective candidates, Giddings and Clark, receive at said election?—Answer. On counting out the votes, there were two votes more in the ballot-box than there were on the tally-list. They deducted two votes from Giddings and gave them to Clark, as he was greatly behind Giddings in supporters.

Question 13. Do you believe, from your long acquaintance in the county, that the votes polled at said election was a fair test of the voting strength of Bosque County?—Answer. It was the largest vote ever polled in the county.

SAMUEL FOSSETT.

Attest:

THOS. A. McSPADDEN,
Justice of the Peace and Notary Public, Bosque County.

JOHN JAMES, witness, appearing and being duly qualified, testifies to the questions in depositions set forth fully as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. About eleven years.

Question 3. Were you one of the managers of the election at the last congressional election?—Answer. I was sworn in as clerk.

Question 4. Was said election conducted in a peaceable and quiet manner?—Answer. It was. Each voter cast his ballot as he chose, no person questioning his right to vote for whom he pleased.

Question 5. Do you know of any riot, tumult, act of violence, intimidation, armed disturbance, bribery, or corrupt influence, any threat, or any circumstance that would interfere with the purity and freedom of registration and election, either before or during registration and election?—Answer. I do not.

Question 6. Did you at any time before or during the election, or since, hear of any removal of registrar, or change in election officers?—Answer. I have.

Question 7. From whom did you get your information; and what did your informant remark in relation to the result of said change or removal?—Answer. Philip Howard was my informant; he has frequently remarked, in substance, to me, that he believed it to be a concocted plan by Ford to throw out the vote of Bosque County.

Question 8. What number of votes did the respective candidates, Giddings and Clark, receive at said election?—Answer. Giddings received 457, and Clark received 77.

JOHN JAMES.

Attest:

THOS. A. McSPADDEN,
Justice of the Peace, Bosque County.

PETER ROBINSON, F. M. C., a witness, appearing and being duly qualified, testified to the questions in depositions set forth fully, as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. Twelve years.

Question 3. What position did you hold at the late congressional election?—Answer. I was a member of the board of revision and appeals.

Question 4. Was the election conducted peaceably, fairly, and without partiality to any political party?—Answer. It was.

Question 5. Did you know of any riot, tumult, act of violence, intimidation, armed disturbance, bribery, or corrupt influences, any threat, or any circumstance that would interfere with the purity and freedom of registration and election, either before or during registration or election?—Answer. I did not.

Question 6. Did you know of any removal of registrar, or change in election officers, during the election, or before?—Answer. I did not know before registration closed of any; but heard afterward that there had been a change in registrar; that I heard during the election.

Question 7. Who was registrar of Bosque County prior and at said election?—Answer. John A. Biffle.

Question 8. Who was reported to have been appointed to supersede Biffle as registrar?—Answer. Thomas Ford.

Question 9. Did you ever hear Ford say anything about his being appointed registrar; if so, what did he say?—Answer. I hear Ford say that he (Ford) was appointed registrar, and that the election would be illegal, on account of Biffle's having registered the voters of the county.

Question 10. What number of votes did the respective candidates, Giddings and Clark, receive at said election?—Answer. I believe, to the best of my recollection, that Giddings received 457 and Clark 77.

Question 11. Were the returns of the election properly authenticated, sealed, and forwarded to the proper authority at Austin, as the law directs?—Answer. They were.

Question 12. You being a freedman, do you believe that all the legal voters of Bosque County, regardless of color or previous condition, had a fair opportunity to vote as they chose?—Answer. I do.

PETER ROBINSON.

Attest:

THOS. A. McSPADDEN,
Justice of the Peace, Bosque County.

THADDEUS T. ANGEL, witness, appearing, and being duly qualified, testified to the questions in depositions set forth fully, as follows, to wit:

Question 1. Where do you reside?—Answer. In Bosque County.

Question 2. How long have you resided in Bosque County?—Answer. Nearly four years.

Question 3. Did you hold any position whatever, by appointment, election, or otherwise, during or before the last congressional election?—Answer. I did—that of postmaster, at Meridian.

Question 4. State, if you recollect, whether any document passed through your office, directed to "Thomas Ford, registrar of Bosque County;" if so, about what time did said document reach your office?—Answer. A document did come to the post-office, directed to "Thos.

Ford, registrar of Bosque County," about one week before the election, in October last.

Question 5. What was the size of document?—Answer. A common-sized official envelope, larger than a common letter envelope.

Question 6. Do you remember what amount of postage stamps were on said document?—Answer. Six cents' worth.

Question 7. Were the election returns of the last congressional election deposited in your office, properly directed, to be sent to Austin?—Answer. They were.

Question 8. As postmaster, did you forward, by due course of mail, said election returns?—Answer. I did.

T. T. ANGEL,
P. M. Meridian, Bosque County, Texas.

THE STATE OF TEXAS, *Bosque County:*

I, Thomas A. McSpadden, justice of the peace for beat No. 4, Bosque County, Texas, and *ex officio* notary public, certify that the foregoing depositions were sworn to and subscribed before me by the parties whose respective signatures are attached thereto, to wit: Philip Howard, John A. Biffle, M. S. Greer, John H. Johnson, R. L. Nicholson, Samuel Fossett, John James, Peter Robinson, (F. M. C.,) T. T. Angel, postmaster, sworn to and subscribed before me on the 22d and 23d days of February, A. D. 1872, the examination having been commenced on Thursday, the 22d day of February, A. D. 1872, upon which day all the witnesses, from Philip Howard to R. L. Nicholson, inclusive, were examined, and continued on the 23d day of February, A. D. 1872.

In testimony of which I hereunto sign my name and attach my notarial seal.

[SEAL.]

THOS. A. McSPADDEN,
Justice of the Peace, Beat No. 4, and
Notary Public for Bosque County, Texas.

No. 8.—*Depositions taken in Washington County.*

It is agreed that D. G. Worrell, United States commissioner, shall commence this day, at the office lately occupied by T. W. Morriss, in the city of Brenham, Washington County, Texas, to take testimony for contestant in the case of D. C. Giddings *vs.* W. T. Clark, now pending before the Congress of the United States, for seat as Representative from the third congressional district of Texas, and that he may examine all such witnesses as may appear, hereby waiving notice and time.

D. C. GIDDINGS,
Contestant.
THOMAS G. DAVIDSON,
Attorney for Contestee.

FERRUARY 1, 1872.

Depositions taken at office in city of Brenham, Washington County, Texas, on behalf of D. C. Giddings, contestant, before D. G. Worrell, United States commissioner, western district Texas, residing in third

congressional district of said State, commencing February 1, A. D. 1872, pursuant to the request of notice and agreement, hereto annexed, in the matter of the contested election case in Forty-second Congress of the United States from the third congressional district of Texas, wherein D. C. Giddings contests the certificate of election held by the Hon. W. T. Clark. Present D. C. Giddings, contestant, and T. G. Davidson, attorney for W. T. Clark. The following-named witnesses were sworn in behalf of contestant, and made the following answers:

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal of the western district of Texas, greeting:

You are hereby commanded to summon Peter Diller, Tully Kemp, Thomas G. Davidson, Lyddleton Smith, A. M. Hughes, Seth Shepperd, F. A. Wilman, I. B. McFarland, David A. Allen, N. W. Bush, H. Hancock, John Hackworth, John Kemp, R. A. Harvin, J. J. Stockbridge, S. S. Hosea, P. W. Connell, John Sayles, O. H. P. Garrett, O. Crozier, H. C. McIntyre, C. Preatzel, P. W. McNeese, L. K. Tarver, personally to be and appear before me, a United States commissioner for the western district of Texas, at the court-house in the city of Brenham, county of Washington, on Thursday, the 1st day of February next, at 9 o'clock a. m. of said day, to give evidence on behalf of the contestant in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the third congressional district of Texas, the United States, and to remain from day to day until discharged by law. Herein fail not, under the penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this 25th day of January, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed, except I. B. McFarland, January 26–31, 1872.

T. KEMP,
Deputy United States Marshal.

Executed on I. B. McFarland, February 5, 1872.

T. KEMP,
Deputy United States Marshal.

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal of the western district of Texas, greeting:

You are hereby commanded to summon William Keesee personally to be and appear before me, (a United States commissioner for the western district of Texas,) at the court-house in the city of Brenham, county of Washington, on Thursday, the 1st day of February next, at 9 o'clock a. m. of said day, to give evidence in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the third congressional district of Texas, the United States, and to remain from day

to day until discharged by law. Herein fail not, under the penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this 24th day of January, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed January 30, 1872.

T. KEMP,
Deputy United States Marshal.

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal of the western district of Texas, greeting:

You are hereby commanded to summon E. T. Wallace personally to be and appear before me, (a United States commissioner for the western district of Texas,) at the court-house in the city of Brenham, county of Washington, on Thursday, the first day of February next, at 9 o'clock a. m. of said day, to give evidence in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the third congressional district of Texas, the United States, and to remain from day to day until discharged by law. Herein fail not, under the penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this 24th day of January, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed January 27, 1872.

T. KEMP,
Deputy U. S. Marshal for the Western District of Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal, greeting:

You are hereby commanded to summon Charles Childs personally to be and appear before me, at the court-house in the city of Brenham, county of Washington, on Thursday, the 1st day of February next, at 9 o'clock a. m. of said day, to give evidence in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the United States for the third congressional district of Texas, and to remain from day to day until discharged by law. Herein fail not, under the penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this 25th day of January, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed February 1, 1872.

T. KEMP,
Deputy United States Marshal.

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal of the western district of Texas, greeting:

You are hereby commanded to summon J. W. McCowan personally to be and appear before me, (a United States commissioner for the western district of Texas,) at the court-house in the city of Brenham, county of Washington, on Thursday, the 1st day of February next, at 9 o'clock a. m. of said day, to give evidence in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the third congressional district of Texas, the United States, and to remain from day to day until discharged by law. Herein fail not, under penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this the 24th day of January, A D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed February 3, 1871.

T. KEMP,
Deputy United States Marshal.

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal of the western district of Texas, greeting:

You are hereby commanded to summon L. H. McNelly personally to be and appear before me, (a United States commissioner for the western district of Texas,) at the court-house in the city of Brenham, county of Washington, on Thursday, the 1st day of February next, at 9 o'clock a. m. of said day, to give evidence in behalf the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the third congressional district of Texas, the United States, and to remain from day to day until discharged by law. Herein fail not, under penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this the 24th day of January, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed February 3, 1872.

T. KEMP,
Deputy United States Marshal.

UNITED STATES OF AMERICA,
Western District of Texas:

To the United States marshal or any deputy marshal of the western district of Texas, greeting:

You are hereby commanded to summon J. B. Robertson personally to be and appear before me, (a United States commissioner for the

western district of Texas,) at the court-house in the city of Brenham, in the county of Washington, on Thursday, the 1st day of February next, at 9 o'clock a. m. of said day, to give evidence in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress of the third congressional district of Texas, the United States, and to remain from day to day until discharged by law. Herein fail not, under penalty of the law.

Witness my hand and official signature, at office, in the city of Brenham, this the 24th day of January, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

Executed February 1, 1872.

T. KEMP,
Deputy United States Marshal.

PETER DILLER, witness for contestant, being sworn, answers as follows:

Question. What is your name and where do you reside?—Answer. Peter Diller; reside in Brenham, Washington County, Texas.

Question. What office did you hold on or about October, 1871; when were you appointed, and by whom; and at what time did you enter upon the duties of your office?—Answer. Register of voters of Washington County; was appointed on the 13th September, 1871, by E. J. Davis, governor of the State of Texas, and entered upon the duties of my office on the 16th of September, 1871.

Question. Were you present on the 3d, 4th, 5th, and 6th days of October, 1871, with the board of election, at the court-house in Washington County, at an election held on said days for Representative in Congress from the third congressional district, State of Texas?—Answer. I was present on said days in my official capacity as register of voters.

Question. Was the election conducted in fair, peaceable, and quiet manner, or otherwise?—Answer. It was conducted in a free, fair, and peaceable manner.

Question. Who were the members of the boards of appeal and revision; and who were the clerks of said election; how many ballot-boxes were used at said election; how many at the same time, and who furnished said boxes; and what has been the practice as to ballot-boxes used at elections in Washington County since the year 1865? Could all the votes in said county be polled at one box in the four days allowed by law?—Answer. The board of revision and appeals were the managers and judges of the election. They were Tully Kemp, J. W. McCown, sr., and Charley Childs. The clerks were John Kemp, John Hackworth, Harry Hancock, R. A. Havin. There were four ballot-boxes used during the election; two would be used at the same time. The boxes were furnished by the county court. The last election was conducted the same as all previously held in this county since 1865. I, as register, have conducted two elections previous to this, one of which E. J. Davis was elected as governor and W. T. Clark as congressman. This election was conducted in the same manner as the one last referred to. All the votes in this county could not have been polled at one box in the four days allowed by law. Nine hundred votes was as much as could be polled at one box in the day, with the most efficient clerks.

Question. Who had charge of the boxes from the closing of the polls until the opening the next day?—Answer. I, as register, had charge of the boxes, and placed them, at the closing of the polls, in the district clerk's safe, and took the key, Captain McNally, of the State police, placed on duty by Governor Davis, taking the key to the outer lock. Boxes, before being placed in the safe, were sealed in my presence and that of others, and also unsealed in like manner at the opening of the polls on following day.

Question. What was the size of the room in which the election was held? How far apart were the boxes? Were they in full view of all the managers of the election? Did any particular member of the board of the election have charge of any particular ballot-box during the election, or were they changed at any time during the election?—Answer. The room in which the election was held was about 16 feet square, the boxes about 15 feet apart, and were in full view of myself and all the managers of the election. No judge had charge of any particular box during the election. The boxes were changed once, to my knowledge.

Question. Were any voters prevented from voting at either of the boxes on account of party, race, color, or previous condition, or any other cause; did not white and colored voters vote at both boxes; and did not the count show the ballots were mixed?—Answer. They were not; they were permitted to vote at either box whichever they saw proper. White and colored voted at both boxes, and the count showed they were mixed.

Question. Was any objections made as to the manner of conducting the election in regard to the use of two boxes?—Answer. There was none.

Question. Did the use of two boxes tend to promote a fair election or otherwise?—Answer. It did. The entire vote could not have been polled otherwise.

Question. Were you present when the vote was counted out on the night of the 6th of October, and who else were present?—Answer. I was, the judges of the election, the clerks, Captain McNelly, F. A. Wilman, J. B. Robertson. J. B. Robertson and F. A. Wilman were there to represent the candidates, by the proclamation of the governor. Captain McNelly was captain of the State police, and on duty by order of Governor Davis.

Question. Did not you and all the members of the board of election, including Charley Childs, immediately after the counting of the votes, express yourselves as to the peaceable manner and the fairness of the election?—Answer. I do not recollect what Charley Childs said; all the rest expressed themselves as satisfied.

Question. What number of votes did each of the candidates receive? When and by whom was the election return signed? You will please attach a copy of the official return to this deposition.—Answer. W. T. Clark, 2,599; D. C. Giddings, 2,432; L. W. Stevenson, 1. The returns were signed by Tully Kemp, J. W. McCown, sr., and myself, as register. I herewith attach a copy of the official return indorsed by me:

Return of an election held in accordance with the proclamation of the governor, commencing on the 3d of October, A. D. 1871, and continuing four consecutive days, in Washington County, State of Texas, for election of Congressmen.

Mr. W. T. Clark received 2,599 votes; Mr. D. C. Giddings received 2,432 votes; Mr. L. W. Stevenson received 1 vote.

We, the undersigned, judges of election and registrar in the county of Washington, do hereby certify that the above is a correct return of the election for congressman for

the county of Washington, held at Brenham, in said county, on the 3d, 4th, 5th, and 6th days of October, 1871.

TULLY KEMP,
J. W. McCOWN, Sr.,
Judges of Election.
PETER DILLER,
Registrar.

Sworn to and subscribed before me, a district clerk for said county, at Brenham, Texas, this 7th of October, 1871.

J. J. STOCKBRIDGE,
Clerk District Court, Washington County.

Question. What is the number of registered voters of Washington County; how many white and how many colored?—Answer. There was at the last election 6,681 unrevised. This includes white and colored. It is impossible to tell from the registration-books the number of either. This also includes all who have been registered since 1867. None have been stricken off on account of death or any other cause. The books show white men down as colored and colored as white.

Question. Did any persons vote who were not registered?—Answer. None.

Question. Did you go from Brenham to Austin in the month of October, 1871, after the election; if so, did you go of your own accord, or were you requested or ordered to go by any other person, and what person?—Answer. I did go to Austin about that time. I went of my own accord, to take the returns of the election.

Question. Did you take the registration-books with you, and for what purpose?—Answer. I did take them, to show the bad condition they were in, and get authority to make a new copy.

Question. Did you sign a statement, or make affidavit in the city of Austin, on the twentieth day of October, 1871, before J. P. Newcomb, secretary of state; if so, who wrote said statement, and at whose instance did you make it; and were you sworn to said statement or affidavit; and if so, by whom were you sworn? State all the facts you know in relation to the same.—Answer. I signed a statement on or about that time. I made no affidavit thereto. The statement was presented to me by F. A. Wilman, at the Avenue Hotel in the city of Austin. I was sick at the time. I refused to sign it. I made some objections to some statements in it. I struck out of said statement the words "illegal voters," and inserted "voters on declaration of intentions," and made several other alterations in pencil. Wilman came into my room afterward, and said the alterations were made. I never made any affidavit or statement of any character in regard to the election before James P. Newcomb, secretary of state. I have examined what purports to be a copy of a statement made, subscribed, and sworn to by me before James P. Newcomb, secretary of the State of Texas, on the 20th day of October, A. D. 1871, certified to as a true copy of the original by J. E. Oldright, acting secretary of state, under date of November 21, 1871. No such statement was ever signed by me. It appears to be a copy of the statement presented to me by F. A. Wilman, as heretofore referred to, and contains none of the alterations and changes made by me, in the presence of said Wilman, before I signed, and which he afterward told me had been made. I identify the statement referred to by my signature, together with that of the officer before whom this deposition is taken, on the margin of said paper.

Question. What was the proportion of the vote cast at the late election to the vote cast at previous elections, compared with the registered

voters?—Answer. There was a fuller vote cast than at any previous election.

Contestee declines cross-examining.

PETER DILLER.

Sworn and subscribed before me this 1st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

CHARLEY CHILDS, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, color, and residence?—Answer. Charley C. Childs; between thirty-five and forty years old; colored; reside in Brenham, Washington County.

Question. Were you a member of the board of appeals and revision at the election held in this city for congressman, held on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was.

Question. At what time were you appointed, and by whom?—Answer. On the 31st day of September I was appointed to fill the vacancy occasioned by the resignation of Bob Tarver; my appointment was made by Tully Kemp and J. W. McCown, sr., then acting on the board.

Question. Did you serve from that time until the close of the election and the counting out of the votes?—Answer. I did.

Question. Who were the other members of the board who acted with you?—Answer. Tully Kemp and J. W. McCown.

Question. Were you present when the vote was counted out on the night of the 6th of October, and who else was present?—Answer. I was present, with Tully Kemp, J. W. McCown, Harry Hancock, R. A. Harvin, clerks of the election; F. A. Wilman, J. B. Robertson, Captain McNelly.

Question. What was the number of votes cast for each of the candidates?—Answer. W. T. Clark received 2,599; D. C. Giddings received 2,432; L. W. Stevenson received 1.

Question. In what building was the election held?—Answer. In southeast corner room, lower floor, of the court-house.

Question. What was the size of the room?—Answer. About 16 or 18 feet square.

Question. How many ballot-boxes were used during the election?—Answer. Four; and two at the same time.

Question. Were the boxes in the same room, and in view of the judges of election, and how far apart were the boxes?—Answer. They were in the same room, and in view of the judges of the election, and about 12 feet apart.

Question. Were there any ballots received at either of the boxes from any person who was not a registered voter?—Answer. None.

Question. Did the use of two boxes interfere with the holding of a fair election?—Answer. I do not know whether it did or not.

Question. Have you attended all the elections held in this county since 1865?—Answer. I have voted at all the elections held in the county since 1865.

Question. Have not two ballot-boxes been used at all the elections previous?—Answer. I do not know. Know that there was at the election held in 1869, when I acted as challenger.

Question. Did you, during the election, object to the use of two boxes, and who to?—Answer. I did to Mr. Diller. He was the register. He said it was lawful, and I made no further objection.

Question. Did you make a minority report to Governor Davis in regard to the manner the election was conducted?—Answer. I did.

Question. Did you write the report yourself, or did some other one write it for you, and who wrote it?—Answer. I did not write it. R. A. Harvin wrote it for me.

Question. Who advised you to make this report?—Answer. No one; made it of my own will.

Question. Did you talk with any one about it, before making it?—Answer. I talked with several persons about what passed during the election.

Question. Did you take an active part in the election and campaign, and with what party?—Answer. When my own color talked to me, I talked to them in favor of the republican party, to which party I belong.

Cross-examined by contestee:

Question. Do you know of any one being prevented from voting at the last congressional election?—Answer. I do not.

Question. Did you talk with Dr. Norris in regard to the election?—Answer. I did.

Question. To what party does Dr. Norris belong?—Answer. To the democratic party.

Question. What did Dr. Norris say when he talked with you?—Answer. He said we intend to carry this election; we do not intend it to be a nigger government. If we don't carry this election, there will be shedding of blood.

Question. Was he drinking at the time?—Answer. I don't know.

Question. You told Colonel Giddings that you had made a minority report; what was the tenor and effect of the report?—Answer. That there was fraud and intimidation used during the election.

Question. State what fraud and what intimidation came within your own personal observation.—Answer. All the fraud I know of was double tickets in the white ballot-box. I think I found four or five of those double tickets chewed up together. This is all the fraud I saw. I know of no intimidation being used of my own knowledge.

Question. Were you on the board of appeals with one "Byrne?"—Answer. I was.

Question. Who else was on the board of appeals at that time?—Answer. Mr. Kemp and myself.

Question. Did or did not the board of appeals at that time make a decision to strike from the list those parties who had registered upon certificates obtained from the district clerk, during vacation, to declare their intention to become citizens?—Answer. Such decision was made.

Question. Was that decision carried into effect?—Answer. It was not; no names were struck off in accordance with that decision.

Question. Why was not that decision carried into effect?—Answer. One reason was because, under the law, parties were entitled to three days' notice, and there was not time to give notice. Another reason was that Byrne, one of the board, was an unnaturalized foreigner.

Question. How came Byrne off the board of appeals?—Answer. Mr. Kemp remarked to me that he was not a citizen, and what we had done was illegal. He was then stricken off the board.

Question. Who was then appointed to fill Byrne's place?—Answer. J. W. McCown, sr.

Question. Was the question of striking off the parties who had de-

clared their intentions discussed after the new board was formed?—Answer. Yes.

Question. Then what was the decision of the board?—Answer. McCown said we could not do it, for we had no protection; let them do it.

Question. Who was meant by them, and what?—Answer. I suppose he meant them up at Austin, where they had protection. I suppose he meant the governor.

Question. Did those parties holding such certificates, issued by the clerk, vote?—Answer. I don't know they did, nor I don't know their names.

Question. How long have you resided in Washington County?—Answer. Since 1865.

CL. CHILDS.

Sworn and subscribed to before me this 1st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

TULLY KEMP, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, where do you reside, and how long have you resided there?—Answer. Tully Kemp; fifty-two years old; have resided in Texas since 1853; in Brenham, Washington County, since 1858.

Question. What office did you hold and exercise in October, 1871, and at what time was you appointed?—Answer. I was appointed on the board of appeals and revision, to fill the place made vacant by J. T. McAdams, by R. A. Harvin and Robert Tarver, then managers, on September the 27th, 1871. I qualified and acted as a member of the board until the close of the election.

Question. Who constituted the board and what changes were made in it, from the time you went into it until the close of the election?—Answer. At the commencement, R. A. Harvin, Robert Tarver, and myself constituted the board up to September 29, 1871; R. A. Harvin resigned, and J. W. McCown was appointed in his place. On the 2d of October, 1871, Robert Tarver resigned, and Charley Childs was appointed to fill his place by McCown and myself. On Saturday the board adjourned to permit McCown to go to his residence in the town of Washington, some twenty miles distant. On Monday morning, at 9 o'clock, the hour the board had adjourned to, McCown failing to reach the courthouse, the question was raised whether myself and Childs could transact the business in his absence, and some one suggested that we had better appoint another, so as to have a full board, whereupon Joseph P. Byrne was appointed. McCown had not resigned, nor had his seat been declared vacant. After Mr. Byrne's appointment, the discussion arose as to striking off the names of all parties who had registered on their declaration papers. This question had been decided by a full board previously that their names should not be stricken off, during which time the protest of Childs and Byrne was submitted, which is hereto attached, to identify which I hereby indorse my name on the back of, as the commissioner before whom these depositions are being taken.

BRENHAM, TEXAS, *October* 2, 1871.

I do hereby enter my solemn protest against your action as a majority of the board of appeals for Washington County, of which I am the third member, in erasing from

the list of registered voters those residents of foreign birth who have declared their intention to become citizens of the United States in accordance with the law thereof; and I do assign the following reasons:

1st. The voters whose names were erased had no notice of the objections to their rights, either actual or constructive.

2d. This question has been decided by this board sitting in legal session, on the 30th day of December, 1871, and the new board has no authority to reverse its own judgment.

3d. The erasure of these names is in direct violation of the constitution and laws of Texas, which we have sworn to support and obey.

4th. These persons have, in my opinion, formed upon a careful study of the law, complied with the demands of the laws of the United States in filing their declarations of intention.

Not being able to do violence to my conscience in the commission of a gross outrage upon the liberties of a free people, I reiterate my protest against the action of the majority of the board.

Respectfully yours,

To CHARLEY CHILDS and BYRNE, *Members Board of Appeals.*

Indorsed on the back: D. G. Worrell, United States commmisioner, western district Texas.

At the time foregoing protest came in, Byrne contended that those registered on papers of declarations should be stricken from the list of voters. I asked him if he was a naturalized citizen. He said he was not; he had only declared his intentions. I then told him he was not a legal member of the board, whereupon he tendered his resignation in writing. In the mean time McCowan had arrived in town and took his seat as a member of the board. No other changes were made during the election.

Question. Who were the judges and clerks of the election? Where was the election held, and when?—Answer. The judges of the election were J. W. McCown, Charley Childs, and Tully Kemp; the clerks were John Hackworth, Harry Hancock, R. A. Harvin, and John R. Kemp. It was held in the southeast corner room, lower floor of the court house, on the 3d, 4th, 5th, and 6th days of October, A. D. 1871.

Question. Describe the room, position of the ballot-boxes, how many used, and how many at the same time.—Answer. I think the room is sixteen or eighteen feet square. There were two boxes used at a time during the election. One of the boxes was placed at the southeast corner window, the other at the west door, in the same room. I think they were some twelve or fourteen feet apart, both in sight of all the managers and clerks. I think on the third day one box was found to be nearly full, and was sealed up and replaced by another. I don't think there was but three used during the election.

Question. Did the use of two boxes at a time promote a full, free, and fair election, or otherwise?—Answer. I do; in my opinion cannot be received in one box in the time allowed by law.

Question. Was the election for Representative to Congress a full, free, and fair election, or not?—Answer. Yes, as far as I know or could learn.

Question. Did you know of any intimidation or fraud practiced by contestant or any of his friends?—Answer. I did not.

Question. Did white and colored vote at both boxes; and was there any prohibition on account of race, or color, or previous condition?—Answer. White and colored did vote at both boxes. There was no prohibition against voting at either box. A majority of the colored votes was polled at one box, and a majority of the whites at the other.

Question. How many State police were on duty; by whom were they appointed?—Answer. Nineteen or twenty; appointed by the former registrar, Lyd Smith.

Question. Were there any arrests made during the registration and election at or about the polls?—Answer. None.

Question. Was any particular ballot-box under the control of any particular judge during the entire time of the four days of the election?—Answer. At the window where the principal part of the colored vote was taken, Charley Childs and myself were there most of the time. At the other box, where the principal white vote was cast, J. W. McCown was there most of the time, and myself part of the time. On the first or second day the boxes were changed for half a day.

Question. Upon counting the ballot, what was the result?—Answer. W. T. Clark received 2,599; D. C. Giddings received 2,432; L. W. Stevenson received 1.

Question. Did you, or did you not, hear prominent republicans express themselves as being satisfied as to the fairness of the election?—Answer. I heard nothing to the contrary, from republicans or any one else.

Question. Did F. A. Wilman, who represented W. T. Clark as challenger, and was present during the counting of the votes, and Charley Childs, a member of the board, express themselves as to the fairness of the election; if so, how?—Answer. I heard F. A. Wilman and Charley Childs during the election, and after the counting out of the votes at the close of the election, as fully satisfied as to the fairness of the election, but the next morning, after the returns were made out, Charley Childs, though he did not refuse to sign the returns, which were made out by me and McCown, said he wanted time to think. I then signed them and went off; whether Childs ever signed them or not, McCown did; also Diller signed them.

Cross-examined by contestee:

Question. Were there in your hearing any threats made, or was there to your knowledge any intimidation used by which voters were prevented from voting for the candidates of their choice, or officers from the performance of their duties?—Answer. There was not.

TULLY KEMP.

Sworn and subscribed to before me this 1st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Commission adjourned at 5½ o'clock p. m., to meet at 9 o'clock a. m. the 2d of February, 1872.

FEBRUARY 2, 1872.

Met pursuant to adjournment. Present: D. G. Worrell, United States commissioner; Tully Kemp, United States deputy marshal; D. C. Giddings, contestant; and Thos. G. Davidson, attorney for contestee.

It is agreed that D. C. Giddings, contestant in the matter of the contested election case of D. C. Giddings *vs.* W. T. Clark, now pending before the Congress of the United States for seat as Representative from the third congressional district of Texas, wherein D. C. Giddings is contestant and W. T. Clark is contestee, that contestants shall commence taking testimony at Bryan, Brazos County, Texas, on the 8th day of February, 1872, before D. G. Worrell, commissioner for the western district of Texas, residing within said district, and continue from day to

day, Sundays excepted, and adjourn from place to place, within said district, until he shall have completed his testimony, hereby waiving notice of time, place, and names of witnesses.

D. C. GIDDINGS,
Contestant.
T. G. DAVIDSON,
Attorney for Contestee.

FEBRUARY 2, 1872.

Z. W. MATTHEWS, a witness for contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. Z. W. Matthews; age, forty-nine years; residence, Bellville, Austin County, Texas.

Question. How long have you resided in Austin County?—Answer. About thirty-four years.

Question. Were you present at an election held in Austin County on the 3d, 4th, 5th, and 6th days of October, 1871, for Representative to Congress, and in what capacity?—Answer. I was there during the entire time as a citizen under the proclamation of the governor.

Question. Was there or not free access to the polls at said election to all electors, regardless of race, color, party, or any other cause?—Answer. There was free access to all portions.

Question. Was there any intimidation practiced toward any persons?—Answer. None, that came to my observation or knowledge.

Question. Was not said election fair, peaceable, and quiet?—Answer. It was one of the most peaceable, quiet, and fair elections I ever saw, with the exception of the rejection of the votes of 263 who offered to vote.

Question. What was the vote as counted out?—Answer. The vote as counted, D. C. Giddings received 1,348, W. T. Clark received 1,322, L. W. Stevenson received 6 votes.

Question. How many votes were rejected, and for what causes, and for which candidate?—Answer. Seven in the regular box, and were found two or more folded together. There was 263 votes in the rejected box, as called—260 for D. C. Giddings, and 3 for W. T. Clark. These parties had all been regularly registered, and, under instructions from the governor, were stricken off, because they had made their declarations to become citizens before the district clerk during vacation; some because they were said to be railroad hands, and were not claimed to be permanent citizens of the county; some because they had taken out their naturalization papers before the police or county court.

Question. Was the police or county court a court of record, having a seal?—Answer. It was a court of record, using a seal.

Question. Were the governor's orders observed during the election in Austin County?—Answer. They were, strictly.

Question. Did you or not, during and after the election, hear prominent republicans express themselves as to the fairness of the election?—Answer. I did hear them all express it to be a fair election.

Question. State any fact or circumstance that comes within your knowledge that would go to show the fairness of the election.—Answer. I was present at the counting of the votes, and saw the face of every ticket. The votes for Giddings were on white paper; those for Clark were mostly on red or checkered back; and there was not a single ticket where the printed name of either candidate was erased from any of the tickets.

Question. Have you seen the governor's letter addressed to the board

of appeals of Austin County, under date of September 25, 1871?—Answer. I have seen the original letter, and identify the letter by writing my name on the back thereof, with the commission who taking these depositions.

Question. What effect did said letter have upon the board? In consequence of said letter, how many names were stricken from the list of registered voters?—Answer. After consultation, the board determined to follow the instructions of the letter, and 315 names were stricken from the list of registered voters. Of this number, 260 voted for D. C. Giddings, 3 for W. T. Clark, which votes were received by the judges and placed in the rejected box, and not included in the count above referred to, but a separate return thereof was made to the secretary of state.

Question. Was registration open during the election?—Answer. On the second day of the election there was some parties registered—all freedmen except one.

Question. How many state policemen were on duty during the election, and were any arrests made?—Answer. I think about ten; none except a freedman who was boisterous, and was immediately released without punishment.

Cross-examined by contestee:

Question. Do you know of any intimidation used by which voters for either of the candidates were prevented from coming to the polls?—Answer. None.

Question. Do you know of any combination by which freedom of speech was prohibited during the canvass?—Answer. None.

Z. W. MATTHEWS.

Sworn and subscribed to before me this 2d day of February, A.D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Z. W. MATTHEWS recalled by consent.

Question. In your first examination, you stated that the board of appeals and revision, in obedience to the instructions of the governor, struck off 315 names from the list of registered voters. Was any notice given to the parties that application would be made to strike their names from the list of registered voters?—Answer. The only notice given was by posting in the court-house an alphabetical list of certain persons, showing that they were registered on certificates issued by the district clerk during vacation, or were transient persons, or were naturalized by the police court. This list was not signed by any one, nor did it show for what purpose the list was posted.

Question. When was this list first posted?—Answer. It was posted on the first day of the election; am certain it was not posted before, as I am frequently about the court-house and would have seen it had been posted before.

Question. Was any other notice than the one just mentioned given to the persons whose names are embraced on the list?—Answer. No other notice was given.

Question. When were the names embraced in this list stricken off from the list of registered voters?—Answer. It was either on Monday or Monday night, or early on Tuesday morning of the same week, Tuesday being the first day of the election, on which day the notice was posted.

Question. What was the last day the board of appeals and revision could legally sit by law?—Answer. Monday, the 2d day of October.

Question. Then you mean to say that the notice was not given until after the time had expired during which the board of revision and appeals could legaly sit?—Answer. I do.

Z. W. MATTHEWS.

Sworn and subscribed to before me this 2d day of February, A.D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

I. N. WILSON, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and residence?—Answer. I. N. Wilson; thirty-three years old; Bellville, Austin County, Texas.

Question. What office did you hold on or about the 1st of October, 1871?—Answer. I was a member of the board of appeals, and one of the judges of the election held in Austin County.

Question. When and by whom were you appointed?—Answer. Appointed by Governor E. J. Davis some time in the spring of 1871, and served upon the board of appeals and judge of election from the 27th of September, 1871, until the 7th day of October, 1871.

Question. How was the election for Representative in Congress on the 3d, 4th, 5th, and 6th days of October, 1871, conducted—fairly, quietly, and peaceably, or otherwise, in Austin County?—Answer. Fairly, peaceably, and quietly; as much so as any election I ever attended.

Question. Was there free access to the polls for all persons?—Answer. There was.

Question. Was there any intimidation practiced toward any one during the four days?—Answer. Not to my knowledge.

Question. Were names of persons, duly registered, stricken from the list of registered voters; and if so, from what cause?—Answer. About 300 were stricken from the registration list by order from Governor Davis, addressed to the registrar and board of appeals, dated September 25, 1871, and received by the board on the night of the 29th of September, 1871, which is hereto attached, and to identify which I write my name on the back in the presence of the commissioner before whom this deposition is taken:

EXHIBIT A.

GOVERNOR'S OFFICE, AUSTIN, *September* 25, 1871.

SIR: I am informed that you have allowed unnaturalized persons to register on certificates from the clerk of your district court that they had declared before the clerk their intention to become citizens. This practice is improper. The thirteenth section of the registry law, approved July 11, 1870, looks to the making of such declaration of intention before the court, and not before the clerk, having reference probably to the first condition set forth in section 1 of the act of Congress of April 14, 1802, (2 United States Statutes at Large, p. 153.)

Again, it is reported that many employés of the railroad (or of contractors on it) have been registered in your county. This should not have been done, unless it was clearly shown that such employés had acquired an actual residence in the county with the intention of remaining. It is not proper to register a man who happens to be in the county only because the railroad (or some contractor on it) has employed him there, and who is ready and expects to leave whenever his employers need his services elsewhere, as in most of these instances was probably the case.

Both of the above classes of persons improperly registered should be stricken from the registry list, and not allowed to vote, as they are not qualified voters of the county.

Respectfully,

EDM'D J. DAVIS, *Governor.*

REGISTRAR AND BOARD OF APPEALS, *Austin County.*

Indorsed on the back: "D. G. Worrell, United States Commissioner, western district Texas."

Question. Would the board of appeals of Austin County have stricken those names from that list only for that order?—Answer. They would not.

Question. Was any notice given to the parties whose names were stricken off the list of registered voters; and if so, what?—Answer. There was no notice given.

Question. What were the causes of striking the names of these 300 from the registration list?—Answer. There were three classes of persons, a larger part of which were those who had declared their intentions before the district clerk during vacation; a portion of whom had taken out their final naturalization papers before the police or county court; five or seven who were said to be transient persons, or railroad hands. Not more than two or three of the last class offered to vote.

Question. Are the district courts and police courts of Austin County, of which you have spoken, common law and equity jurisdiction, each having a clerk and seal?—Answer. They are.

Question. Did each of these persons who were stricken off have certificates of registration?—Answer. All of them who offered to vote held regular certificates of registration.

Question. How many of those whose names were thus stricken off offered to vote?—Answer. Two hundred and sixty-three.

Question. What was done with the ballots of those 263?—Answer. Their ballots were received and deposited in a separate ballot-box, marked "rejected." After we had counted the regular ballot-box, the votes in the rejected box were then counted and written upon the back of each the word "rejected," placed in package, sealed, and sent to the secretary of state.

Question. How many of these votes were for each of the candidates?—Answer. D. C. Giddings received 260; W. T. Clark received 3.

Question. Were these votes included in the count and returns of legal votes from Austin County?—Answer. They were not; but were returned as rejected votes.

Question. How many votes in your regular box found to be for each of the candidates?—Answer. D. C. Giddings received 1,348; W. T. Clark received 1,322; L. W. Stevenson received 6; seven ballots were thrown out by reason of their being two or more folded together.

Question. Was the returns, as above, made out and forwarded?—Answer. The returns were made out in triplicate, showing the above result; one forwarded to the governor of the State, one to the secretary of state, and one filed with the clerk of the district court.

Question. Was or was not the governor's election orders observed during registration and election in Austin County?—Answer. They were, strictly.

Question. Was their any fraud, violence, or intimidation used by contestant, or any of his political friends, toward any party or parties, to prevent them from casting their votes freely for the candidates of their choice?—Answer. There was none to my knowledge.

Question. Is Austin County, Texas, embraced within the third congressional district of Texas?—Answer. It is.

Question. With what political party have you affiliated?—Answer. With the republican party.

Question. What office did C. L. Abbott hold about the 1st October, 1871?—Answer. He at that time was a member of the house of representatives of the legislature of Texas.

Question. Was he present during the registration and election in Austin County?—Answer. He reached Bellville, Austin County, on Monday, about 12 m., the 2d day of October, 1871, and assumed and discharged the duties of registrar from that time until the close of the election.

Question. Did he remove the former registrar, R. P. Faddis?—Answer. He took his place as registrar, by what authority I don't know.

Question. Do you know whether he brought blank commissions signed by E. J. Davis or not?—Answer. Of my own knowledge I do not know, but Senator Bell, of Austin County, who had just come from Austin, in company with Abbott, told me that unless the board of appeals struck off the names from the list of registered voters, in accordance with the governor's order, we would be removed, and a new board appointed; several changes were made; whether the parties resigned or were removed I don't know.

Question. Was registration open during the election?—Answer. It was—one day.

Question. How many and what class of persons were registered at that time?—Answer. Sixteen colored and two white were registered; the said Abbott was presiding and directed the registration.

Question. Were there any statements of fraud, intimidation, or violence made by the registrar or judges of the election?—Answer. None to my knowledge.

Question. Did you hear any prominent republican say whether Clark would get his certificate, regardless of the number of votes?—Answer. I did not.

Cross-examined by contestee:

Question. Do you know of any party or parties who were prevented from voting the republican ticket on account of threats of social ostracism or threats of any other kind?—Answer. I do not.

Question. Was the election conducted there as fair for the republican as for the democratic party?—Answer. It was.

I. N. WILSON.

Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

H. HANCOCK, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and residence?—Answer. H. Hancock; twenty-one years; reside in Brenham, Washington County, Texas.

Question. Were you present at an election held in the town of Brenham on the 3d, 4th, 5th, and 6th days of October, 1871, and if so, in what capacity?—Answer. I was present, and acting as one of the clerks of the election.

Question. Who were the judges and clerks of the election?—Answer. The judges were Tully Kemp, J. W. McCown, Charles Childs; the clerks were myself, R. A. Harvin; the assistant clerks were John Kemp, J. W. Hackworth.

Question. Who else was present in the election-room?—Answer. Peter Diller, the registrar; F. A. Wilman, representing W. T. Clark; Seth Sheperd, representing D. C. Giddings, as citizens, under the proclamation of the governor.

Question. How many ballot-boxes were used during the election, and how many at the same time?—Answer. I think there were four used during the election, two used at the same time.

Question. Were or not both boxes in the same room and in view of all the judges and officers of the election?—Answer. They were.

Question. What was the size of the room in which the election was held, and how far apart were the ballot-boxes?—Answer. About sixteen feet square. The boxes were about fourteen feet apart.

Question. Did or not white and colored vote at both of the boxes?—Answer. They did.

Question. Was any one prevented from voting at either of the boxes on account of race, color, party, or previous condition?—Answer. They were not; saw no intimidation at either box.

Question. Were any votes received from persons not duly registered?—Answer. None, to my knowledge.

Question. Was there any fraud, violence, or intimidation, preventing a full and fair election?—Answer. I neither saw nor knew of any.

Question. You assisted in counting the votes?—Answer. I did.

Question. What was the number for each of the candidates?—Answer. W. T. Clark received 2,599; D. C. Giddings received 2,432; L. W. Stevenson received 1.

Question. Did you hear members of the board and other prominent republicans express themselves as to the peaceable and quiet manner in which the election was conducted?—Answer. I did.

Question. What prominent republicans did you hear express themselves?—Answer. That all, according to my recollection, expressed themselves as being entirely satisfied, and heard nothing to the contrary.

H. HANCOCK.

Sworn and subscribed to before me this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOHN W. HACKWORTH, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. John W. Hackworth; twenty-seven years old; reside in Brenham, Washington County; lived in the county since my birth.

Question. Were you present at an election held at the court-house, in the town of Brenham, on the 3d, 4th, 5th, and 6th days of October, 1871, for a Representative to Congress, and if so, in what capacity?—Answer. I was present as assistant clerk.

Question. Describe the room in which the election was held.—Answer. Southeast corner room of the court-house, lower floor, about sixteen feet square.

Question. How many ballot-boxes were used during the election, and how many at the same time?—Answer. I believe there were four during the election; two at the same time.

Question. Describe the position of the boxes, and the reasons for using more than one box at the same time.—Answer. One was placed on the

east side, in the window through which voters passed their ballots; the other was side of the room near the door, through which voters passed their ballots.

Question. Were or not both boxes in full view of the register, all the judges, and clerks of the election?—Answer. They were.

Question. Were any votes received at either of the boxes who were not duly registered?—Answer. None, so far as I know.

Question. Did the use of two boxes promote a full and fair election, or otherwise?—Answer. I think it did.

Question. Could the entire registered vote of Washington County have been received at one box during the four days allowed by law for holding the election?—Answer. I think they could.

Question. Was any one prevented from depositing his ballot in either box he saw proper?—Answer. There was not.

Question. Have you been present at other elections held in this county since 1866?—Answer. I voted at the election in 1870.

Question. What has been the practice in this county in relation to using two boxes at the same time?—Answer. The practice has been to use two boxes.

Cross-examined by contestee:

Question. At which one of the boxes did you clerk?—Answer. At the one at the west side.

Question. Who presided over that box?—Answer. J. W. McCown, sr.

Question. How was that box designated from the other, if at all?—Answer. I believe it was called the white box.

Question. Who presided at the other box, and what was it called?—Answer. Tully Kemp and Charley Childs, and was called the colored box.

Question. Was there in your hearing, at the box which you clerked, which would tend to intimidate parties from voting for Clark?—Answer. There was not.

Question. Did white and colored vote at both boxes or not?—Answer. They did.

Question. Were you in the room during the entire election as a clerk?—Answer. I was.

J. W. HACKWORTH.

Sworn and subscribed to before me this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

O. CROZIER, a witness in behalf of contestant, being duly sworn, testified as follows:

Question. What is your name, age, and residence?—Answer. O. Crozier; thirty-three years old; reside in Brenham, Washington County, Texas.

Question. Were you present in the city of Brenham at an election held on the 3d, 4th, 5th, and 6th days of October, 1871, for Representative to Congress?—Answer. I was, part of the third, and all the other days.

Question. Did you occupy any official position at that time, and if so, what?—Answer. I was deputy sheriff at the time.

Question. Was anything said or done during the election to prevent a free and fair election?—Answer. Nothing.

Question. If there had been any fraud, violence, or intimidation, would you not have known it?—Answer. Yes.

Question. Were you in frequent communication with prominent republicans during the election? Did you hear any one express any dissatisfaction as to the manner in which the election was being conducted?—Answer. I did not.

Question. Have you been present at all the elections held in this county since 1866?—Answer. I have been present at all elections since the freedmen were allowed to vote, all of which were held at the county-seat.

Question. How many ballot-boxes have been used at the same time?—Answer. Two boxes have always been used.

Question. Could the vote of this county have been received in one box during the time allowed for voting?—Answer. No.

Question. Did the use of two boxes tend to promote a full and fair election, or otherwise?—Answer. It did tend to promote a full and fair election.

Question. Did not colored men vote at the white box—white men vote at the colored box?—Answer. Yes.

Question. Could not any one have voted at either box they wished at any time?—Answer. Yes.

Question. Why were these boxes designated as white and colored boxes?—Answer. Because a majority of the whites voted at the white box, and a majority of the colored voted at the colored box.

Question. Do you know R. K. Smith?—Answer. Yes.

Question. When did you first see him in Brenham during the election?—Answer. On the last day of the election, about 4 o'clock in the evening, when he arrived from Bellville, Austin County.

Question. Did you hear him at that time make any remark about the manner of conducting the election here, and if so, what was it?—Answer. He said the white box would be all thrown out and Clark's majority would be the votes in the colored box.

Question. Had you, before that time, heard any one objecting as to the manner in which the election was being conducted?—Answer. I did not.

Question. To what political party did R. K. Smith belong, and who did he support for Congress?—Answer. He belonged to the republican party and supported Clark.

Question. With which political party have you acted for the last few years?—Answer. I have been a republican since 1867.

Cross-examination waived.

O. CROZIER.

Sworn and subscribed to before me this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOHN R. KEMP, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. John R. Kemp; age twenty-three; reside in Brenham, Washington County, Texas.

Question. Were you present at an election held in Brenham on the 3d, 4th, 5th, and 6th days of October, 1871, for member of Congress, and in what capacity?—Answer. I was; acting as clerk.

Question. Describe the room in which the election was held.—Answer. It was the southeast corner room on lower floor of the court-house, and about sixteen feet square.

Question. How many ballot-boxes were used during the election, and how many at the same time?—Answer. I don't know how many boxes were used during the election; two were used at the same time.

Question. Describe the position of the boxes.—Answer. One setting in the southeast corner window, on the east side, the other setting on table at the west door, opening on the hall.

Question. Were both boxes in full view of the register, judges of the election?—Answer. Both boxes were in full view of the register and judges of the election, in the same room.

Question. Why were two boxes used?—Answer. To facilitate the election, as the whole vote of the county could not be polled at one box, as we were very much crowded most of the time.

Question. What has been the practice in regard to the use of two boxes in the holding of elections since 1866?—Answer. It has been the practice of using two boxes, at all elections that I have witnessed, since it has been the custom to vote at but one place in the county.

Question. Who furnished the boxes, and at whose instance were two boxes used?—Answer. I understood they were furnished by the county court; at the instance of the judges of the election that two boxes were used.

Question. Was there any objection made to the use of two boxes during the election?—Answer. I never heard any objection made by any during the election to the using of two boxes.

Question. Was there any violence, fraud, or intimidation, by which electors were prevented from voting at either of the boxes?—Answer. None that I saw or knew of.

Question. Did white and colored vote at both of the boxes?—Answer. They did.

Question. Was said election conducted fairly, peaceably, quietly, or otherwise?—Answer. I never saw a more peaceable or quiet election held in the town.

Question. Were the election orders of Governor Davis complied with?—Answer. As far as I know, they were.

Cross-examination waived by contestee.

JOHN R. KEMP.

Sworn and subscribed to before me this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

A. M. HUGHES, a witness on behalf of the contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and residence?—Answer. Archibald M. Hughes; about fifty years old; reside in Brenham, Washington County, Texas.

Question. What official position do you occupy, and how long have you occupied the same?—Answer. Deputy clerk district court, Washington County, and been such since November, 1867.

Question. Have you as such issued certificates of declaration to become citizens of the United States?—Answer. I have during my term of office, between three hundred and five hundred. I hereto attach blank form used in office of district clerk, to identify which, I hereby

write my name, together with that of the commissioner taking these depositions:

THE STATE OF TEXAS, *County of Washington:*

I, ——— ———, of the county of ———, State of Texas, do declare on oath that I arrived in the United States of North America on the —— day of ———, A. D. 18—; that I am ——— years of age, and that it is my *bona fide* intention to become a citizen of the United States, and do hereby renounce all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly to ———, of whom I am a subject.

Sworn to and subscribed before me this —— day of ———, 18—.

Witness, J. J. Stockbridge, clerk, and the seal of the district court of Washington County, State of Texas, at office in the city of Brenham, in said county of Washington, date before written.

——— ———,

Clerk District Court Washington County.

To all to whom these presents shall come: Know ye that ——— ——— of the county of ———, State of Texas, has this day sworn to, subscribed, and filed in the district court of Washington County, State of Texas, his declaration of intention to become a citizen of the United States of North America, which declaration is in the following words, to wit:

I, ——— ———, of the county of ———, State of Texas, do declare on oath that I arrived in the United States of North America on the —— day of ———, A. D. 18—; that I am ——— years of age, and that it is my *bona fide* intention to become a citizen of the United States, and I do hereby renounce all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly to ———, of whom I am a subject.

To certify which I, J. J. Stockbridge, clerk of the district court of Washington County, State of Texas, do hereto sign my name and affix the seal of said court, at office in the city of Brenham, in the said county of Washington, on this —— day of ———, A. D. 187—.

——— ———,

Clerk District Court Washington County.

Indorsed on the back: "A. M. Hughes. D. G. Worrell, United States commissioner, western district Texas."

Question. Did you, before issuing such certificates, consult with any official in relation to your authority to issue such certificates?—Answer. I did, before issuing, consult with the Hon. I. B. McFarland, judge of the twenty-ninth judicial district of Texas, who assured me I had authority to issue such certificates, and showed me the law.

Question. Is the district court, of which you are deputy clerk, a court of general jurisdiction and court of record?—Answer. It is a court of record, having a seal and clerk.

Question. Were you present at the election held at Brenham on the 3d, 4th, 5th, and 6th days of October, 1871, for a member of Congress?—Answer. I was present at the court-house where the election was held on each and every day.

Question. How was said election conducted?—Answer. Peaceably and fairly, so far as I know.

Question. Was there any intimidation or violence by which any elector was prevented from voting for the candidate of his choice?—Answer. None to my knowledge.

Question. What has been the practice of using two or more ballot-boxes in Washington County, since the elections have been held at but one place in the county?—Answer. So far as I recollect, at all elections held since 1866, two boxes have been used at the same time.

Question. Was last election for member to Congress conducted in the same manner as all elections since 1866?—Answer. It was.

Question. Were both boxes in the same room, and in view of the judges of the election?—Answer. They were.

Question. Did white and colored vote at both boxes?—Answer. I saw whites vote at what was called the colored box, but saw no colored vote at a white box.

Question. Was any one prevented from depositing his vote at either box on account of race, color, or previous condition?—Answer. No one, that I know of.

Question. Did the use of two boxes tend to promote a fair election or otherwise?—Answer. I think it did tend to promote a fair election, as in my opinion the entire vote of the county could not have been received, in the four days allowed by law, at but one place for receiving them.

Question. Have any statements, papers, or documents in relation to fraud, intimidation, violence, in regard to the election held in Brenham in October last for Representative in Congress, been filed in the office of the district clerk of Washington County?—Answer. Up to the 20th day of November, 1871, at which time I as deputy clerk of said court—at which time I made an examination, none had been filed. If any have been filed since I do not know it.

Question. Did you hear any objection made at the election as to the use of two boxes by any one?—Answer. I have no recollection to hearing any objection being made.

Cross-examined by contestee:

Question. At what time did you commence to issue the certificates to parties making declaration to become citizens?—Answer. July or August, 1871.

Question. How many certificates of declaration have been issued from the office of which you are deputy clerk?—Answer. About five hundred.

Question. Do you know of any party or parties who were prevented from voting the republican ticket at the late congressional election from threats of social ostracism, or any threats whatever?—Answer. I do not.

Question. Were parties allowed to vote freely for the candidates of their choice?—Answer. They were, as far as I know.

A. M. HUGHES.

Sworn and subscribed to before me this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

H. C. McINTYRE, witness in behalf of contestant, being duly sworn, testified as follows:

Question. What is your name, age, and where do you reside, and how long have you resided there?—Answer. Hugh C. McIntyre; sixty-five years old; reside in Brenham, Washington, and have since 1840.

Question. Were you present in the town of Brenham at an election held on the 3d, 4th, 5th, and 6th days of October, 1871, for Representative in Congress?—Answer. I was.

Question. How was said election conducted—fairly or otherwise?—Answer. I think it was conducted fairly.

Question. Was any intimidation or violence used to prevent parties from voting for the candidates of their choice?—Answer. There was not, to my knowledge; and had there been, the parties would have been arrested by the police who were in attendance.

Question. What has been the practice in Washington County since

the voting has been at one place, in relation to the use of two ballot-boxes at the same time?—Answer. There has been two used at every election since 1866, at one of which E. J. Davis was elected governor, and W. T. Clark elected to Congress.

Question. Did the use of two boxes at the same time tend to promote a full and fair election, or otherwise?—Answer. It tends to promote a full and fair election. In my opinion, the vote of Washington County could not have been polled in the four days allowed by law in the using of one box.

Question. Was any one prevented from voting at either of the boxes on account of race or color?—Answer. There was not; had there been, I would have known it, as I was there nearly all the time.

Question. Did white and colored vote at both boxes?—Answer. They did. I saw white men vote at the colored box and colored men vote at the white box.

Question. Was the election order of the governor observed in Washington County?—Answer. So far as I know, they were observed.

Question. Did you ever see a more quiet and peaceable and fair election?—Answer. I never did; and I heard men of both parties, during and after the election, say that they never saw a more peaceable, quiet, and fair election.

Cross-examined by contestee:

Question. Did you know of any freedmen threatened to be turned if they voted the Clark ticket?—Answer. I did not know of any.

H. C. McINTYRE.

Sworn and subscribed before me this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

I. M. ONINS, a witness in behalf of the contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence, and how long have you resided in Texas?—Answer. I. M. Onins; thirty-seven years old; resided in Texas fifteen years.

Question. What official position do you now hold, and when appointed?—Answer. I am judge of the 28th judicial district; was appointed in August, 1870.

Question. Were you in Brenham, Washington County, Texas, on the 3d, 4th, 5th, and 6th days of October, 1871, at an election held for member of Congress?—Answer. I was.

Question. How was said election conducted; fairly or otherwise?—Answer. I was in the court-house only once during the election, and cannot therefore say whether it was conducted fairly or not. The best order prevailed in the town of Brenham during the entire election. There was no disturbance of the peace that I either saw or heard of. I never knew an election conducted so quietly. I saw but one man during the four days of the election who was the least boisterous, and this was after the polls had closed on the last day. Such was the good order that prevailed that it was a general matter of observation and remark.

Question. Have you been present at other elections in Washington County since all the voting has been at the county seat?—Answer. I have.

Question. What has been the practice in Washington County in relation to the use of ballot-boxes, one or more, since the elections have been

held at the county seat?—Answer. I remember only the election for State and county offices and for representatives, in 1869. At that election there were two ballot-boxes used at the same time.

Question. Did the use of two boxes at the same time tend to facilitate the election and to promote a full and fair vote?—Answer. It undoubtedly facilitated the balloting, and was conducive to the obtaining a full and fair expression of individual choice. I do not think that the entire vote of the county could have been polled at one box during the four days allotted to the election.

Question. Was there any fraud or intimidation used to prevent parties from freely exercising the privilege of the ballot?—Answer. I knew of no fraud or positive intimidation. I heard of nothing that would lead one to suppose there was such. In Washington County political parties are so nearly distinguished by color that I think it required a considerable degree of moral courage for a black man to vote for Giddings, and a white man to vote for Clark.

Question. Is not the judicial district over which you preside a part of the third congressional district?—Answer. It is.

Question. Was there in your district any organization or conspiracy to control the election, or the action of individuals in making their choice in the election of a Representative?—Answer. I knew of no such organization or conspiracy, unless, indeed, the special State police force called into action during the registration and election was such.

Question. With what political party have you affiliated for some years passed?—Answer. With the republican party.

Cross-examined by contestee:

Question. To what county or counties do you refer in your answer, referring to the special police?—Answer. I was in Milam County during the registration that preceded the election, and my observation extends only to that county.

I. M. ONINS.

The foregoing evidence was reduced to writing by the witness, I. M. Onins, in my presence. Sworn and subscribed to before me, this 2d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Commission adjourned to meet at 9 o'clock a. m. February 3, 1872.

SATURDAY, *February* 3, 1872.

Met pursuant to adjournment. Present: D. G. Worrell, United States commissioner; Tully Kemp, deputy United States marshal; D. C. Giddings, contestant; and Thomas G. Davidson, attorney for contestee.

SETH SHEPARD, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence?—Answer. Seth Shepard; twenty-five years old; resided in Washington County all my life.

Question. Were you present in the town of Brenham, Washington County, on the 3d, 4th, 5th, and 6th days of October, 1871, during an election for members of Congress?—Answer. I was, during the whole time.

Question. Where was the election held, who were the judges, register, and describe the place where the election was held?—Answer. The

election was held on the lower floor of the court-house, southeast room; Peter Diller, register; Tully Kemp, J. W. McCown, sr., and Charles Childs, were the judges.

Question. Were they all present to superintend the election?—Answer. They were all present and acting in concert, with the exception of one being absent, for a few moments at a time, occasionally.

Question. Were you present in the room with the register and judges, and in what capacity?—Answer. I was present, nearly the whole time, as a citizen, under the proclamation of the governor, in accordance to his instructions to the judges.

Question. How many ballot-boxes were used during the election, and how many at the same time?—Answer. There were three boxes used that I know of, and probably four, and two at the same time for the reception of ballots.

Question. Were both boxes in the same room, and in full view of the judges of the election?—Answer. They were, and within some eight or ten feet of each other.

Question. Did any particular box remain under the charge of any particular judge, or were the boxes changed?—Answer. The boxes were changed at noon of the first day. Up to that time there was no mark upon them that they could be distinguished by.

Question. About how many votes had been polled in each box up to that time?—Answer. About 400 or 450.

Question. Did the use of two boxes tend to promote a full and free election, or otherwise, and what was the reason for using two boxes?—Answer. It did tend to promote a full and free election. The reasons were: the registrar and judges expected a poll of about 6,000 votes in the county; they believed it impossible to poll that number of votes in one box, in the time allowed by law for holding the election. This opinion was concurred in by almost every one. The arrangement was made by the unanimous consent of the registrar and judges, and the boxes used were provided by them. Captain McNelly, the officer in charge of the police at the polls, was instructed by them as to the manner of approach to the polls by the voters.

Question. Have you attended any or all of the elections held in the county since it has been the custom to vote only at the county seat, and what has been the custom as to using two boxes?—Answer. I have attended the three last elections held in the county. At each of these elections they were all conducted in the same manner, by using two boxes. The first of these was the general election for governor and State officers, November, 1869, at which election W. T. Clark was elected to Congress; the second was for presiding justice of Washington County, which was held on the last of November, 1870; the third, held in October, 1871, for Representative to Congress.

Question. Did you ever hear of any objections being made as to the use of two boxes?—Answer. No objection was made by any one; the friends of both candidates were fully satisfied. The first objection I heard of being raised was in the certificate given to Clark.

Question. How was the last election conducted—peaceably, fairly, and quietly, or otherwise?—Answer. I never saw a more peaceable, orderly, or quiet election in my life; there was no row, disturbance, or difficulty at or near the polls during the whole time. There was a large police force in attendance under the orders of the governor and chief of police, and to my knowledge but one arrest was made by them, at or near the polls, during the election. The party arrested was a young colored man

charged with attempting to vote the second time, and he was discharged in a short time for want of proof.

Question. Was there any violence, intimidation, or threats made on the part of contestant or his political friends to prevent persons from voting for the candidate of their choice?—Answer. There was nothing of the kind.

Question. Was their any organization or combination by which voters were influenced in depositing their ballots by either party?—Answer. The only political organization or combination that I knew of at the time in the county was the Union League. A great number of the State police were engaged during the election in the distribution of tickets for W. T. Clark, and were energetic in hunting up and bringing voters to the polls.

Question. Did you or not hear prominent republicans express themselves as to being entirely satisfied as to the quiet and peaceable manner in which the election had been held?—Answer. I heard the judges of the election, the registrar, the mayor of the city, F. A. Wilman, who was also one of the citizens selected to remain at the polls. I heard Charles Childs, one of the judges, express his satisfaction frequently during the election with the order, and peaceable and fair manner in which it was conducted. I heard him so express himself after the last vote was polled.

Question. Were you present when the vote was counted?—Answer. I was not. On the evening of the last day of the closing of the polls, I was taken sick, and General J. B. Robertson was selected to take my place.

Question. Did or not white and colored voters vote at both the boxes?—Answer. No distinction was made on account of race, color, or politics; the voting was indiscriminate. The majority of the colored voters voted at one box, and a majority of the whites at another, on account of their individual preference; each voter was allowed to vote where he pleased.

(Cross-examination waived.)

SETH SHEPARD.

Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

O. H. P. GARRETT, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence, and how long have you resided in Washington County?—Answer. O. H. P. Garrett; fifty-five years old; have resided in Washington County thirty-two years.

Question. Have you, or not, during a greater portion of that time occupied an official position, and what positions?—Answer. District surveyor of Washington County ten years; commissioner of county five or six years; judge of county court and probate judge about five or six years. After the surrender I ceased to act, until reappointed to the same office by Governor Hamilton.

Question. Were you present in the town of Brenham on the 3d, 4th, 5th, and 6th days of October, 1871, at an election held at the court-house for Representative to Congress?—Answer. I was present in town on each day of the election, and about there more or less.

Question. Was there any violence, fraud, or intimidation used by

contestant, or any of his friends, calculated to prevent electors from freely depositing their ballots for the candidates of their choice?—Answer. I saw no violence, no fraud, no intimidation on part of contestant or any of his friends.

Question. Could parties freely deposit their ballots?—Answer. They could deposit their ballots freely. It was a subject of remark by both parties that the election was and did pass off so quietly, and so fairly conducted.

Question. Have you attended the elections held in this county since 1867?—Answer. I have been at them.

Question. What has been the practice in relation to the use of two ballot-boxes at the same time in this county since 1867?—Answer. There were two boxes used at all the elections I have attended since 1867.

Question. Did the use of two boxes at the same time at the election in 1871 tend to promote a full, fair, and free election, or otherwise?—Answer. I think it did tend to promote a full, fair, and free election. In my opinion the entire vote of the county could not have been polled at one box in the time allowed by law for holding the election.

(Cross-examination waived.)

O. H. P. GARRETT.

Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

C. C. GARRETT, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence?—Answer. C. C. Garrett; twenty-six years old; reside in Brenham, Washington County; resided in Washington County since my birth.

Question. Were you present at an election held at the court-house, in Brenham, Washington County, on the 3d, 4th, 5th, and 6th days of October, 1871, for Representative to Congress?—Answer. I was; and in the absence of Seth Shepard acted as one of the citizens under the instructions of the governor.

Question. Who were the judges of the election?—Answer. Peter Diller, registrar; Tully Kemp, J. W. McCowan, sr., and Charles Childs, were the judges of the election.

Question. How many ballot-boxes were used during the election, and how many at the same time?—Answer. There were four used during the election, and two at the same time.

Question. Were both boxes in the same room, and in full view of the registrar and judges of the election?—Answer. They were.

Question. Was any particular box under the charge of any particular judge during the election, or were they changed?—Answer. I did not understand that any particular judge had charge of any particular box. Can't say whether they were changed or not.

Question. Was any one, on account of race or color, prevented from voting at either of the boxes; and did not they vote at both boxes?—Answer. I saw both white men and colored men voting at both boxes. No one was prevented from voting at either box on account of race or color.

Question. Did the use of two boxes tend to promote a full, fair, and free election, or otherwise?—Answer. It tended to promote a full, fair, and free election. In my opinion the entire vote of Washington County

could not be received at one box in the time allowed for holding the election.

Question. Did you hear any objection made as to the use of two boxes at a time during the election?—Answer. I heard none; but on the contrary heard members express themselves pleased with the plan as the only way to poll the whole vote of the county. The first objection I heard was after the certificate was issued to Clark.

Question. Did you or not, after the election, hear prominent republicans express themselves as to the peaceable, quiet, and fair manner in which the election was conducted?—Answer. I heard them express themselves as being perfectly satisfied as to the quiet, peaceable, and fair manner in which it was conducted.

Question. Did you hear F. A. Wilman express himself, or do you know of his having published an article in a paper, and attach a copy of the editorial to your answer?—Answer. I heard F. A. Wilman express himself as being satisfied at the quiet, peaceable, and fair manner in which the election was conducted. He was, at the time of the election, the editor of the Brenham Enquirer, a republican paper published in the city of Brenham, and a strong supporter of W. T. Clark, and in his issue of October the 7th, 1871, the next day after the close of the election, appeared the editorial hereto attached, which I myself cut from the paper of that date:

> The unusual quiet of our election surprised overy one. The timely orders of Governor Davis in relation to conducting the election, and especially in having the dram-shops closed, were conducive to this end. The good citizens also deserve much credit in using their influence to preserve order and good feeling, for had an outbreak occurred our quiet city would doubtless have been a scene of bloody havoc, as we certainly have the material within the borders of Washington County to conduct a thing of that sort to its utmost perfection in the pandemonic line.
>
> The counsels of the good citizens, however, have prevailed. The police, State and city, performed their duty well; the absence of liquor was a blessing, and every one we hear speak on the subject are pleased at the apparent reign of good order that a wise foresight has produced.

Cross-examined by contestee:

Question. How were the two boxes designated, if at all?—Answer. They were called the white box and the colored box, a majority of the whites voting at one box and a majority of the colored voting at the other.

Question. Was there, to your knowledge, any party or parties prevented from voting the republican ticket by threats of social ostracism, or any threats whatever?—Answer. None.

C. C. GARRETT.

Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. B. ROBERTSON, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and residence? How long have you resided in Texas, and how long in Washington county?—Answer. J. B. Robertson; fifty-six years old; reside in Washington County; thirty-six years in Texas; in Washington County thirty-four years.

Question. Were you present in the town of Brenham, Washington County, on the 3d, 4th, 5th, and 6th days of October, 1871, at an election held for a Representative to Congress?—Answer. I was.

Question. How was said election conducted—peaceably, fairly, quietly, or otherwise?—Answer. It was conducted satisfactorily to all parties.

Question. How many ballot-boxes were used during the election, and how many at the same time?—Answer. There was four boxes used altogether—two at the same time.

Question. Did the use of two boxes at a time tend to promote a fair election, or otherwise?—Answer. It did; and without the two voting places it would have been impossible for all the votes to have been polled in the time allowed for holding the election.

Question. Describe the room in which the election was held, the position of the ballot-boxes, the names of the registrar and judges of the election?—Answer. The southeast room, lower floor of the court-house, about sixteen or eighteen feet square; one box situated near the east window, one near the door on the west side of the same room, about eight or ten feet apart; Peter Diller, registrar; Tully Kemp, J. W. McCown, sr., and Charles Childs, judges.

Question. Were the registrar and judges of the election all present during the election, and were the boxes in full view?—Answer. They were, and the boxes were in full view of all of them.

Question. Was any one prevented from voting at either of these boxes on account of race or color?—Answer. There was not. The majority of the whites voted at one box, and a majority of the colored at the other; but both white and colored voted at both the boxes.

Question. Was any particular box under the charge of any particular judge during the entire election, or were the boxes changed? And if so, give your reasons for knowing the fact.—Answer. There was no particular judge in charge of any box. The boxes were exactly alike, as far as I could see, and at the adjournment were carried to the safe in charge of a guard, and locked up, and brought back in like manner; and when brought back were used at either place without regard to where they had been previously used. I was called upon by the board, in the absence of Seth Shepard, to be present at the counting of the ballots after the closing of the election. At the counting of the ballots the boxes were opened one at a time, the ballots counted and strung on a string as counted; and in each and every box there were votes for Clark and for Giddings. This was demonstrated from the fact the votes, as a general rule, for Clark were on red paper, and for Giddings on white paper. But there were votes for Clark on white paper and for Giddings on red paper. The mixture of these colors, of the paper on which the ballot was printed, in each and every box, demonstrated the fact that the boxes were changed each day of the election. The ballots strung on this string as they were taken from the box, by their mixture of colors, proved the same fact.

Question. Were you present when the votes were cast up? If so, give the number for each candidate.—Answer. I was present. In the adding up of the count there was three votes that were found to be doubled, or having the appearance of it. And upon the comparing the number of votes with the tally-list, these votes were thrown out and not included in the count as given above—for W. T. Clark received 2,599; D. C. Giddings received 2,432; L. W. Stevenson received 1, was declared the result, and the returns made out in accordance with the above, and signed by Tully Kemp, J. W. McCown, judges, and Peter Diller, registrar.

Question. Did you hear the judges, or any of them, express themselves as to the result as shown by the returns signed as above?—Answer. All three of the judges expressed themselves as satisfied that that was the

correct result; that the election had been conducted fairly; and they report of fraud, or violence, or intimidation to make, as none had occurred. One of the judges, Childs, stated that he was satisfied, but wanted some time to consider before he signed the return. I was present the next morning when the board met; was informed that they had inclosed the returns and directed them to the secretary of state, and that they would be forwarded. I learned that Childs had not signed the report; gave as a reason therefor that he had heard of intimidation. We asked him for the name of his informer, that we might investigate it, which he declined to give.

Question. Have you attended the elections held in Washington County since 1867?—Answer. I have; two, at least—the one for governor and the other for chief justice of this county.

Question. What has been the practice in relation to the using of two boxes at the same time, since the voting has been at but one place in the county?—Answer. There were two boxes used at both those elections—in the same manner as at the congressional election. I never heard any objection to the using of two boxes until I saw the certificate from Governor Davis to W. T. Clark.

Question. Did you hear prominent republicans at or before the opening of the polls, A. D. 1871, in relation to the use of two ballot-boxes?—Answer. I did. I heard a rumor that there would be but one box used. I made inquiry of leading republicans, believing that the entire vote of the county could not be polled at one box in the time allowed by law, and was informed that two boxes would be used, as heretofore, and was given to understand that this course had the sanction of the authorities, from Governor Davis down.

Question. Do you know of any organization or combination or conspiracy, by which parties were induced to register or vote for either of the candidates?—Answer. A portion, eight or ten, of the State policemen on duty visited the neighborhood in which I live, forced freedmen, by threats of fine and imprisonment, to come and register and vote for W. T. Clark; at least five of these I know to have been under age, the youngest of the five being seventeen and the oldest twenty years old. The State police and Loyal League are the only political organizations in the State that I am aware of.

Question. Do you know of any violence, fraud, or intimidation practiced by contestant, or any of his political friends, whereby any party or parties were prevented from voting for the candidate of their choice?—Answer. I do not.

(Cross-examination waived by contestee.)

J. B. ROBERTSON.

Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. T. McADAM, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and residence?—Answer. John T. McAdam; age twenty-five; Brenham, Washington County, Texas.

Question. Were you appointed, and by whom, a member of the board of appeals for Washington County?—Answer. I was; by Governor E. J. Davis, about the —— day of September, 1871.

Question. When and why did you resign?—Answer. Because I had no time to attend to the duties.

Question. Were you present at the court-house in Washington County, Texas, during the election on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and fairly, as far as I know of.

Question. Were the governor's orders concerning election complied with?—Answer. As far as I know of, they were.

Question. Do you know of any fraud, violence, or intimidation on the part of contestant or his political friends, whereby parties were prevented from casting their votes for the candidates of their choice?—Answer. I do not. I was in the clerk's office, in the court-house, during the whole time of election.

Question. Did the use of two ballot-boxes tend to promote a full, free, and fair election, or otherwise?—Answer. It promoted a free access to the polls for both blacks and whites.

Question. Did not whites and blacks vote at both ballot-boxes?—Answer. They did.

Question. Do you know whether or not Governor Davis gave instructions that two boxes should be used at this election?—Answer. I did not hear the governor speak about two boxes being used.

Question. Did you hear Lyddleton Smith, at that time registrar, say how he was going to conduct the election?—Answer. Lyddleton Smith said, on his way to Houston, that if he had charge of the election he was going to have a fair election, for he said that there was 6,000 votes to be polled in four days. He said he would take a pane of glass out of the window so that the niggers could vote and go about their business, and on the opposite side of the room to have the door open so that the whites could deposit their votes without coming in contact with the blacks. I was present with Dr. Smith and Governor Davis when Smith asked the governor who was going to have charge of the election, when the governor told him that he had trusted him once and could again.

Question. What office do you hold, and how long have you held the same?—Answer. I am deputy district clerk of Washington County, and have been for the last year or more.

Question. About how many declarations of intentions to become citizens have been filed in the clerk's office in that time?—Answer. Between five and six hundred.

Question. By whom were they issued?—Answer. By J. J. Stockbridge, district clerk, A. M. Hughes, deputy, and myself.

(Cross-examination waived by contestee.)

J. T. McADAM.

The above evidence was reduced to writing by witness, J. T. McAdam, in my presence. Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

C. PROETZEL, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence?—Answer. C. Proetzel; forty-six years old; Brenham, Washington County, Texas.

Have resided in Texas twenty-four years; seventeen or eighteen years in Washington County.

Question. Were you present at an election held in Brenham, Washington County, on the 3d, 4th, 5th, and 6th days of October, 1871, for Representative in Congress?—Answer. I was present all the time.

Question. How was said election conducted; peaceable, fairly, and quietly, or otherwise?—Answer. It was peaceable, fair, and quiet; as much so as any election I ever saw in Texas.

Question. Was there any fraud, violence, or intimidation, on the part of contestant, or any of his political friends, tending to prevent parties voting freely for the candidates of their choice?—Answer. There was not, to my knowledge.

Question. Have you attended any of the elections in Brenham since all the voting has been done at the county seat?—Answer. I have.

Question. What has been the practice in relation to the use of two or more ballot-boxes by the board of election managers?—Answer. It has been the practice to receive the ballots at two boxes, in the same room, in those elections, as was practiced at the late election.

Question. Did the use of two boxes tend to promote a fair and free election, or otherwise?—Answer. It did tend to promote a full, fair, and free election, and was necessary to use two boxes in order to poll the whole vote of the county in the time allowed by law.

Question. Did you hear any objection made to the use of two boxes until after the certificate had been issued to W. T. Clark?—Answer. I never did.

Question. Were not many of the foreigners who had declared their intentions, and had been naturalized and duly registered, prevented from voting by reason of the understanding that their names had been, or would be, stricken from the registration list?—Answer. It was generally understood that the names of such persons would be stricken from the registration list, and in consequence of which many of them failed to come.

Question. Do you know of intimidation or violence used by the friends of Clark to prevent persons from voting freely for the candidate of their choice?—Answer. I heard a colored man named Jerry Hanna say he was going to spot every colored man that voted for Giddings.

Cross-examined by contestee:

Question. Do you know of any party or parties prevented from voting the republican ticket by threats of social ostracism, or by any other threats whatever?—Answer. I do not.

C. PROETZEL.

Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. J. STOCKBRIDGE, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence?—Answer. J. J. Stockbridge; thirty-four years old; reside in Brenham, Washington County.

Question. What office do you hold, and how long have you held the same?—Answer. Clerk of the district court of Washington County, and held the same for about four years.

Question. About how many foreigners have made declaration to become citizens since you have been in office?—Answer. Between five and six hundred; about four hundred and fifty, or five hundred, during vacation. This includes the certificates issued by me and my deputies since I have been in office.

Question. Did you take the advice of any official before issuing these certificates?—Answer. I think Mr. Hughes, my deputy, asked the advice of Judge McFarland, judge of the twenty-ninth judicial district, and he said he was authorized to issue them under the law—keeping a record of the applications. I refused to issue them until the judge gave his advice. I examined the records of the court, and found this to have been the practice for a number of years past. It is also the practice of the district court, after residence has been completed, to issue the final papers of naturalization.

Question. Were you present at the election held at the court-house on the 3d, 4th, 5th, and 6th days of October, 1871, for Representative to Congress?—Answer. I was about the court-house all the time, and out about the polls half a dozen times a day or more.

Question. How was said election conducted—peaceably, fairly, quietly, or otherwise?—Answer. As far as I have seen, it was conducted peaceably and quietly, and, as far as I saw, fairly.

Question. Have you attended all the elections since it was required they should be held at the county seat?—Answer. I think I have.

Question. What has been the practice in relation to the using of two or more ballot-boxes in Washington County?—Answer. It has been the practice to use two. This was done in the gubernatorial election of 1869, when E. J. Davis was elected governor and W. T. Clark to Congress.

Question. Did the use of two ballot-boxes tend to promote a full and fair election, or otherwise?—Answer. I think it did; it prevented confusion.

Question. Were or not the ballot-boxes used in the same room, and under the inspection of the same judges and clerks?—Answer. They was.

Question. Did or did not white and colored vote at both the boxes?—Answer. I saw whites vote at the colored box—probably a hundred; don't recollect seeing colored men vote at the white box.

Question. Do you know of any one being prevented from voting at either box?—Answer. I do not.

Question. Do you know of any one on the part of the contestant or his political friends being prevented from casting his ballot for the candidate of his choice?—Answer. I do not.

Question. To what political party do you belong or affiliate with, and for whom did you vote?—Answer. I belong to the republican party, and voted for Clark.

Cross-examined by contestee:

Question. How were the boxes designated, if at all, and by what names?—Answer. They were designated by the white and colored box.

Question. Do you, of your own knowledge, know of any party or parties who were prevented from voting the republican ticket at the late congressional election from threats of social ostracism, loss of business, or of any other kind?—Answer. Not of my own knowledge.

J. J. STOCKBRIDGE.

Sworn and subscribed before me this 3d day of February, A. D. 1872.

D. G. WORRELL,

United States Commissioner, Western District of Texas.

THOS. G. DAVIDSON, a witness in behalf of contestant, being duly sworn, testifies as follows:

Question. What is your name, age, and place of residence?—Answer. Thomas G. Davidson; my age is thirty years; and I reside in the city of Brenham.

Question. What office do you hold; when and by whom were you appointed?—Answer. I am district attorney in and for the twenty-ninth judicial district of the State of Texas. I was appointed by Governor E. J. Davis on the 20th day of July, A. D. 1870.

Question. Have you been present at the different elections held in the county of Washington since the elections have been held at the county-seat?—Answer. I have been present at every election, and voted at every election held since A. D. 1867.

Question. What has been the practice in relation to the use of two or more ballot-boxes?—Answer. We have used two ballot-boxes at every election held since A. D. 1867, and had two places for receiving ballots; the same as at the late congressional election.

Question. Did the use of two boxes tend to promote a full, free, and fair election, or otherwise?—Answer. Without two ballot-boxes being used in this, Washington County, where there is over 6,000 registered voters, we cannot, in my opinion, poll the full vote, and, therefore, I say that the use of two boxes is necessary, in the same room, under the eyes of all the judges of the election, and promotes a full, free, and fair election.

Question. Did you refuse to act as a selected citizen or challenger for General Clark because the judges were using two boxes, and did you hear any objection made to the use of two boxes?—Answer. I did not refuse to act for any such cause. I did not hear any one object to the use of two boxes at the time the election began, nor during the four days of the election. On the day previous to the commencement of the election, myself and J. J. Stockbridge, clerk of the district court of this county, in a conversation held with leading republicans, objected to the use of two boxes, but a majority of those present insisted on two boxes, and we said nothing more, nor did I make any public objection.

Question. Did you know of any fraud, violence, or intimidation used by the contestant or any of his political friends, by which any party or parties were prevented from voting for the candidate of their choice?—Answer. I know of none. I canvassed this county for General Clark; was kindly received at every point; went where I pleased, and made public speeches at five different points. If there had been any intimidation I would have been informed of it, and had there been any violence I would have certainly been called upon to prosecute.

Question. Did you not hear prominent republicans say that Clark would get his certificate of election regardless of how the vote might go, or language to that effect?—Answer. I heard one R. K. Smith say, on the last day of the election in Brenham, that Clark would get the certificate. I heard no one else use language to that effect.

Question. Did you hear John G. Bell, State senator from the twelfth senatorial district, say anything in regard to the registration of voters, as to instructions from Governor Davis, or otherwise; if yea, what?—Answer. I heard Senator John G. Bell say that he had the papers in his pocket, (and that he had just come down from Austin with them,) which would cause the board of appeal in Austin County to strike from the list of registered voters the names of all those who had registered upon declaration of intention to become citizens before the district clerk in vacation. If he used Governor Davis's name, I do not recollect it.

Question. Why was there such anxiety shown on the part of the republicans to have foreigners who had registered on certificate of declaration of intention to become citizens struck from the registration list? Was it not because they thought they would vote with the democracy? —Answer. I do not know what the anxious republicans thought. I, as a republican, thought that the high taxes had driven the Germans from the republican party; and when I saw the instructions from Governor Davis, I thought that we would obtain a large majority, if his instructions were carried out.

Question. Do you, or not, know that the State police called into service by Governor Davis were used during registration to bring in colored men during the registration and election, to register and vote the republican ticket?—Answer. I know that at least ten of said policemen were used to inform colored men that the registration was going, and that they could come in and register without being molested. I do not know that they were used to bring colored men in to vote during the election.

Question. Was F. A. Wilman in favor of using two ballot-boxes during the late election, or not?—Answer. He was; and contended with me, on the night of the 2d of October last, for the use of two boxes.

Question. Was F. A. Wilman a republican, and did he support General Clark? State what official position he now holds, and what has he held.—Answer. F. A. Wilman is called a republican; he supported General Clark, as editor of the Brenham Enquirer; how he voted I do not know; he is now mayor of the city of Brenham. I know of his holding no other official position unless the office of challenger at the last election is called official.

THOMAS G. DAVIDSON.

The foregoing evidence was reduced to writing by the witness, T. G. Davidson, in my presence. Sworn and subscribed to before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

WM. KEESEE, witness for contestant, being sworn, testifies as follows:

Question. What is your name, and where do you reside, and how long have you resided there?—Answer. Wm. Keesee; I reside in Washington County, and have done so for about twenty-eight years.

Question. What office did you hold and exercise on or about October, 1871?—Answer. Magistrate of beat No. 2, known as "Chapel Hill beat," and hold said office still.

Question. Were you present during the election for member of Congress in October, 1871?—Answer. I was during the entire election.

Question. How was said election conducted, peaceably, fairly, or otherwise?—Answer. I never knew a more peaceable or quiet election.

Question. Was there any intimidation practiced by contestant or any of his friends toward voters?—Answer. None.

Question. Was you in a position to have known had there been any? —Answer. I was in a position to have known had their been any.

Question. Have you attended any elections since 1865?—Answer. I have attended all the elections since.

Question. What has been the custom since the voting has been at but one place in the county (since 1865) in reference to the use of one or more ballot-boxes?—Answer. It has been the custom to use two boxes

at the same time for receiving votes, in the same room, under the same judges and the same clerks.

Question. Was or not the last election for member of Congress conducted in the same manner as all elections heretofore have been in respect to receiving votes at the same time in two ballot-boxes?—Answer. It was.

Question. Did the use of two or more ballot-boxes tend to facilitate a full and fair election or otherwise?—Answer. It did facilitate a full and fair election, as the number of registered voters in Washington County, being about 7,000, could not have been received in the time allowed by law in one ballot-box, and in no other way could the entire vote have been received.

Question. Were you or were you not in frequent intercourse with the judges of the election, and did they object to the manner of conducting the election?—Answer. I was in frequent intercourse with the judges of the election during the entire time, and heard no objection to the mode of conducting it.

Question. Did you hear any of the judges of the election express any opinion during the election as to the probable result of the election?—Answer. I did. J. W. McCown, one of the judges of the election, in the time of the election, stated that Clark would get his certificate if he did not get but one vote in the district.

Question. Did he give any reasons for his opinion? State the reasons given.—Answer. He did. Hé stated the Giddings had controlled this county long enough. That Giddings was a democrat, and he would use all his influence to defeat him, whether honorable or otherwise. He also stated that Clark had the assurance of Governor Davis that he (Clark) would get his certificate if he did not receive but one vote in the district.

Question. Do you know of any persons voting at said election who were not registered voters?—Answer. I do not.

Question. Do you know of any who was a registered voter being prevented from voting on account of race, color, or previous condition?—Answer. I do not. All voters, regardless of party or color, had and did exercise the right of voting for the candidate of their choice.

Question. Did you hear prominent members of the republican party, at the time of the election, express themselves as to the manner in which the election was conducted, and if so, how?—Answer. I heard prominent republicans express themselves as being entirely satisfied at the time of the election as to the way the election was being conducted.

Question. Are you acquainted with John Bell, of Austin County; to what political party does he belong, and what official position does he hold?—Answer. I am acquainted with him. He is State senator from Austin, Fort Bend, and Wharton Counties, and is a member of the republican party. Have known for twenty years.

Question. Did you hear him during the election make any statements as to the result of the election?—Answer. I did in Brenham, during the election, hear him say that he had just come from Austin, and had official papers from the governor to close the election in Austin County, and that Clark would undoubtedly receive the certificate, no matter how the voting might stand.

Cross-examined by contestee:

Question. Did not this conversation with Bell take place during the registration?—Answer. It was either during the registration or election—cannot remember which.

Question. Were there two boxes or not used during the election?—Answer. There was—one known as the black box, the other as the white box.

Question. Were the boxes in the same room?—Answer. They were all in the same room, and in sight of all the judges and clerks of the election. The room was about 18 feet square.

Question. Did J. W. McCown state that he had information direct from Governor Davis that Clark would get his certificate or not?—Answer. That McCown stated that Clark had the assurance of the governor that he would get his certificate if he did not receive but one vote in the district.

Re-examined by contestant:

Question. Did or did not many colored men vote in the white box, and many white men vote in the colored box?—Answer. They did. Could vote in either box they chose.

WM. KEESEE.

Sworn and subscribed before me this 3d day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned to meet at 9 a. m., the 5th of February, A. D. 1872.

OFFICE UNITED STATES COMMISSIONER,
Washington County, Texas, February 5, A. D. 1872.

Met at 9 o'clock a. m. this day, pursuant to adjournment and agreement. Present, D. G. Worrell, United States commissioner; Tully Kemp, deputy United States marshal; D. C. Giddings, contestant Thomas G. Davidson, attorney for W. T. Clark, contestee.

Appeared J. W. McCOWN, sr., a witness in behalf of contestant, who, being duly sworn, testifies as follows:

Question. What is your name, age, place of residence, and how long have you resided in Washington County, Texas?—Answer. J. W. McCown, sr.; sixty-eight years old; reside in the town of Washington, Washington County; have resided in Washington County thirty-five years.

Question. Where were you on the days of the last congressional election?—Answer. In Brenham, Washington County.

Question. Were you any of those days acting in any official capacity; and if so, what?—Answer. Yes; I was a member of the board of appeals, and one of the judges of election.

Question. When and by whom appointed?—Answer. On the 30th day of September, 1871, by T. Kemp and R. W. Tarver, members of said board, to fill a vacancy caused by the resignation of R. A. Harvin.

Question. Did you take and subscribe the oath of office?—Answer. I did take and subscribe the oath of office, as required by law, entered upon the duties of office, and acted in that capacity until the close of the election and counting out of the votes.

Question. How was said election conducted?—Answer. Said election was conducted in a fair and peaceable manner, so far as I saw.

Question. Was there any intimidation, violence, or fraud practiced by the contestant or any of his political friends, by which republicans were prevented from voting for the candidates of their choice?—Answer. I saw none.

Question. Who served with you on said board? and mention the

changes thereof made therein.—Answer. Tully Kemp, and R. W. Tarver, and myself until the 30th day of September, when R. W. Tarver resigned, and Tully Kemp and myself appointed Charley Childs to fill said vacancy. On the 2d of October I was at my residence, twenty miles from Brenham, and rode through the rain to gét to Brenham; arrived about 3 o'clock p. m., and found Joseph P. Byrne, an unnaturalized foreigner, had been sworn in as a member of the board. It was decided that he was incompetent and his appointment illegal, and he tendered his resignation in writing, which was accepted, and I took my place upon the board—I had not resigned nor had my place been declared vacant—and continued to act until the closing of the polls and the counting out of the ballots.

Question. State when, where, and how the polls were opened.—Answer. On the morning of the 3d day of October, 1871, in the southeast corner room, lower floor of the court-house, city of Brenham, Washington County; that for the purpose of holding said election, two ballot-boxes were furnished by the proper authorities, in which to deposit the ballots presented by the voters.

Question. State whether or not this has been the custom in Washington County since the voting has all been done at the county-seat.—Answer. It has, as the time allowed by law for holding the election would not admit of receiving and entering all the ballots cast, if one box only were used for receiving all the ballots cast. I have been present at all the elections held in Brenham since 1865, and two boxes have been used at all of said elections; and at the governor's election in 1869, which was also for county officers, there were two boxes for each precinct, making ten boxes in all.

Question. Describe the room and the position of the boxes during the last election.—Answer. It was in the office of the presiding justice of the county, on the lower floor of the court-house, a room about 16 or 18 feet square; both of said boxes in the same room, and under the inspection and in full view of all the members of said board of appeals, and of Peter Diller, the registrar, during the whole time of said election; one box was on the table, near the door of said room, where the majority of the white voters deposited their ballots, at which place I presided; the other box was near the window, on the east side of the said room, and was presided over by Charley Childs; Tully Kemp alternated between the two boxes; I received the ballots at the box on the west side of the room, with exception of two short intervals, having been called upon by the police court; H. Hancock and John Hackworth acted as clerks at said ballot-box; one took the list of voters, the other wrote on the registration certificate the date and the word voted, and that Charles Childs was stationed at the other box where the majority of the colored voters voted, sometimes with the assistance of said Kemp, and at other times without any assistance from him; and that R. N. Harvin and John R. Kemp acted as clerks, one of whom kept the list of voters, and the other wrote on the certificate of registration the word voted and the date thereof, and that Peter Diller, the registrar, had charge of the registry containing the names of registered voters.

Question. Was the election conducted the same at both boxes?—Answer. The election was conducted the same at both boxes; that the said T. Kemp assisted part of the time at the box where I presided, and a part of the time where the said Childs presided.

Question. Did the use of two boxes tend to promote a full, and fair, and free election, or otherwise?—Answer. They did, for the reason we

could not have received the votes of the entire county without the use of two boxes.

Question. Was any unfairness or intimidation practiced by any one, or was any one restricted from voting at either box on account of race or color?—Answer. I neither saw nor heard of any unfairness or intimidation used toward any one at either of the boxes; that no person was restricted from voting at either of the boxes during said election; that many colored voters presented their ballots to me, and many whites at the other box were received and deposited as other ballots.

Question. Were the boxes changed at any time during the election?—Answer. Some time during the election the ballot-box which was first placed near me was changed to the place where the said Childs was stationed, and the box that was first in charge of the said Childs was placed where I was stationed. The boxes were exactly alike, and were locked up together in the district clerk's safe each night, and the change made accidentally; at least we knew nothing of the change until we came to count out the ballots, when we found the ballots to be about half red and half white, the republican ticket being principally on red paper, and the democratic on white paper. They were strung upon a string as they were counted out, which is now in the possession of Peter Diller, the registrar. No person could tell the number of whites or colored that voted at either box or place of voting.

Question. Were you present and assisted in counting out the votes; and if so, what was the result; and did you make out, sign, and forward the returns of said election?—Answer. I was present and assisted in counting out the ballots, and in making the returns. I ascertained that W. T. Clark received 2,599; D. C. Giddings received 2,432; L. W. Stevenson received 1; and the returns showing the above results were made out in accordance with law, sealed up, one directed to the secretary of state, one copy to the governor, and one deposited with the registrar, Peter Diller. In counting the ballots we found three double tickets folded tightly together, which we laid aside until we had completed the count, when we found that, with these, there was three more ballots than names upon the list. We therefore rejected the said three ballots, and they were not included in the above count.

Question. Was any objection made by the managers or judges of the election during the election, or at the close of the election, as to the fairness of the election?—Answer. On the night of the 6th of October, all the officers concerned, including Charley Childs, and Peter Diller, F. A. Wilmans, citizens representing W. T. Clark; J. B. Robertson, citizen, representing D. C. Giddings, expressed themselves as fully satisfied as to the fairness and count of the election; that on the morning of the 7th of October, I, with the other members of the board, together with Peter Diller, registrar, met at the court-house to sign the official returns of said election, when C. Childs said he wanted a little time to think, and went off without signing the returns, and not giving any reason for so refusing; whereupon T. Kemp and myself, with Peter Diller, registrar, signed the returns officially, a true copy of which is attached to the testimony of Peter Diller, registrar; to identify which, I write my name on the back of said return, together with that of the commissioner before whom this testimony is taken. This, together with the statement made in relation to the three ballots, was the only return made.

Question. Was any statement of violence, fraud, or intimidation at said election made by the registrar or the judges of said election, to your knowledge?—Answer. None.

Question. Was any objection made by the election managers as to the use of two boxes or not?—Answer. None.

Question. Was there an order received from the governor to the board of appeals or revision, directing that foreigners registered upon papers of declaration of intention should be stricken from the list of registered voters?—Answer. There was, dated Austin, September 25, 1871; to identify which I write my name upon the back, together with that of the commissioner before whom this testimony is being taken, and is hereby attached:

GOVERNOR'S OFFICE,
Austin, September 25, 1871.

SIR: I am informed that you have allowed unnaturalized persons to register on certificates from the clerk of your district court that they had declared before the clerk their intention to become citizens. This practice is improper. The thirteenth section of the registry law, approved July 11, 1870, looks to the making of such declaration of intention before the "court" and not before the clerk, having reference probably to the first condition set forth in section 1 of the act of Congress of April 14, 1802, (2d United States Statutes at Large, p. 153.)

Again, it is reported that many employés of the railroad, or of contractors on it, have been registered in your county. This should not have been done, unless it was clearly shown that such employés had acquired an actual residence in the county, with the intention of remaining. It is not proper to register a man who happens to be in the county only because the railroad, or some contractor on it, has employed him there, and who is ready and expects to leave whenever his employers need his services elsewhere, as in most of these instances was probably the case.

Both of the above classes of persons improperly registered should be stricken from the registry list and not allowed to vote, as they are not qualified voters of the county.

Respectfully,

EDWARD J. DAVIS,
Governor.

REGISTRAR AND BOARD OF APPEALS,
Brenham, Washington County, Texas.

Indorsed on the back: "I. W. McCown, sr., February 5, A. D. 1872; D. G. Worrell, United States commissioner, western district Texas."

Question. Why were not such names stricken off?—Answer. Because the board thought we had no authority to do so. According to our interpretation of the law, they were legally registered, and entitled to vote.

Question. Why was Governor Davis, and other republicans, so anxious to have these names stricken from the list; was it not generally understood that they would vote the democratic ticket?—Answer. That was my impression. It was generally understood that those parties would vote the democratic ticket.

Question. With what political party did you affiliate during the last congressional campaign, and for whom did you vote?—Answer. With the republican party. Made speeches for Clark, voted for him, and did my best to elect him.

Cross-examined by contestee:

Question. Did you ever state that you had assurances from Governor Davis that he would issue Clark his certificate, whether he received more than one vote or not?—Answer. I never did. Governor Davis never spoke to me on the subject.

Question. Did you ever tell any one that D. C. Giddings should not have a certificate, and gave as a reason that Giddings had controlled Washington County long enough?—Answer. I never did; never said or thought that Giddings did run or had run the county.

Question. Did you see the votes counted out?—Answer. I did; and handled every ticket myself.

J. W. McCOWN, Sr.

Sworn and subscribed to before me this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

LYDDLETON SMITH, a witness in behalf of the contestant, being duly sworn, says:

Question. What is your name, age, residence, and what official position do you hold; when and by whom appointed?—Answer. Lyddleton Smith; age, forty-three; reside in Brenham, Washington County; am sheriff of said county; was appointed by Governor Davis, July, 1870, and have filled same position since.

Question. Were you present at the last congressional election in said county?—Answer. I was present in Brenham and about the polls most of the time, but not specially in charge of the election.

Question.—How was said election conducted; were there any breaches of the peace?—Answer. Quietly, fairly; no breaches of the peace about the polls.

Question. What has been the practice in Washington County since all the voting has been done at the county-seat, in relation to the use of two or more boxes?—Answer. I have attended all the elections held in Washington County since 1867; it has been the custom to use two or more boxes, and to have two places of voting, all in same room, under the same judges, as was the case in the last congressional election.

Question. Did the use of two or more boxes tend to promote a full, fair, and free election, or otherwise?—Answer. It did tend to promote a full, free, and fair election, as, in my opinion, the full vote of the county could not have been received at one box during the time allowed by law.

Question. Was any one, on account of fraud, violence, or intimidation, prevented from voting the republican ticket?—Answer. None to my knowledge.

Question. Was any objection made, by the judges or managers of the last congressional election, to the use of two boxes?—Answer. None to my knowledge.

Question. Do you know of any person voting who was not duly registered, at the last election?—Answer. None.

Question. Did you have any conversation with Governor Davis during the time you were registrar in regard to the late congressional election?—Answer. I met Governor Davis at Houston before the election, and in the course of our conversation the subject of the election was mentioned, and talked of how was best to conduct it.

Question. Was anything said in relation to the use of two or more ballot-boxes; and, if so, what?—Answer. I mentioned to Governor Davis the number of votes to be polled here was so great that I did not think it could be polled in the time allowed by law at one box, and asked him if he could not extend the time to six days. He said it could not be done only by special act of the legislature. There was something said in relation to the use of two boxes, but cannot recollect the exact conversation. I think he asked if two boxes were not used at the previous election, and made no objection to the use of two boxes. He said he wanted a free and fair election; that he had trusted me before and

would trust me again; that he intended to have a fair election in Washington County, if he had to put every man in the county under arrest.

Question. Were the election orders of Governor Davis obeyed in Washington County?—Answer. They were, as far as I know; there were no arrests made or attempted to be made.

Question. With what political party did you affiliate at the late congressional election, and for whom did you vote?—Answer. The republican party.

(Cross-examination waived by contestee.)

LYDDLETON SMITH.

Sworn and subscribed to before me this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

E. T. WALLACE, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. E. T. Wallace; age, 41; reside in Brenham, Washington County.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the last congressional election?—Answer. I was in Brenham, Washington County, Texas.

Question. Were you present about the polls while the election was being held?—Answer. I was several times about the polls during said election.

Question. How was said election conducted—peaceably, fairly, quietly, or otherwise?—Answer. Peaceably, quietly, and, as far as competent to judge, fairly.

Question. Was there, to your knowledge, any fraud, violence, or intimidation by contestant or any of his political friends, whereby any republicans were prevented from voting for the candidate of their choice?—Answer. None at all. I heard of intimidation among the colored men, forcing them to vote for the republican candidate.

Question. Was W. T. Clark the choice of the republican party of the district, or was he forced upon the party by political wire-workers?—Answer. If it had been left to a fair expression of the republican party, that he would not have received the nomination.

Question. What position did you hold in the United States Army?—Answer. First lieutenant in the United States service for nine years.

Question. With what political party have you affiliated?—Answer. Republican party up to the last election, and am still a republican, but voted the democratic ticket at said election. Clark was not my choice, and I thought he was forced upon the party.

(Cross-examination waived by contestee.)

E. T. WALLACE.

Sworn and subscribed to before me this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

L. H. MCNELLY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence, and official position?—Answer. L. H. McNelly; twenty-six years old; reside in Wash-

ington County, Texas; captain of State police, fourth district, and appointed by E. J. Davis, governor of Texas, in July, 1870, and am holding the position at this time.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election, and how employed?—Answer. I was in Brenham, Washington County, Texas, in charge of the State and city police at said congressional election then being held.

Question. How was said election conducted, and your means of knowing the facts about which you are testifying?—Answer. I was present at and about the polls during the entire time, and know, of my own personal knowledge, that the election aforesaid was held and carried on in said county in perfect quiet, without any disturbance or intimidation by any person whatever, except that some negroes, friends of Clark, intimidated some other negroes, friends of Giddings, and am satisfied from this cause many negroes were prevented from voting for Giddings. Having charge of the police at the polls, it was my business to maintain quiet and order.

Question. Were you present at the gubernatorial election held in Brenham, Washington County, 1869?—Answer. I was.

Question. Were there or not two ballot-boxes used, and two places of voting, the same as used in the late congressional election?—Answer. There was.

Question. Did the use of the two boxes tend to promote a full, free, and fair election, or otherwise, and your reasons for thinking so?—Answer. It did, as the number of votes in the county could not have been polled at one box within the prescribed time allowed by law, which was four days, and prevented the chances of a collision between the whites and blacks by crowding up to the polls.

Question. Was any one prohibited from voting at either box on account of race or color, and did not both white and blacks vote at both of said boxes?—Answer. There was no one prohibited from voting at either box. Whites and blacks voted at both boxes, nearly promiscuously.

Question. Did you hear any objections made by the judges at the time of the election, or by any one else, as to the use of two boxes?—Answer. I did not, but, on the contrary, it was the opinion of the officers of the election and prominent republicans, including F. A. Wilmans, (who represented W. T. Clark as challenger,) urged the necessity of having two boxes or places of voting at, as it was generally understood that the entire vote of the county could not have been polled at one box.

Question. Were you present when the vote was counted?—Answer. I was, and saw each ticket taken from the box, and saw each name called correctly.

Question. Were the tickets—democratic and republican—distributed through all the boxes as demonstrated by the count?—Answer. They were. I saw each box opened and counted out; they were pretty nearly equally divided between the two candidates, Giddings and Clark; that the tickets, as taken from the boxes and counted, were strung upon a string, which will demonstrate the same fact.

Question. During and at the close of the election, did you hear the managers of the election and others express themselves in relation to the manner said election was conducted; and if so, how?—Answer. During the election I frequently heard the judges of the election and prominent men of both parties express themselves as to the peaceable and quiet manner in which the election was conducted. And after the close of the election, being desirous to know what their report would

be, as my official reputation as captain of State police, in charge of the election, would be thereby affected, I asked the question if they had ever seen a more peaceable, quiet, and fair election; they all, including Charley Childs and F. A. Wilman, said they had not, and expressed themselves gratified that the same had been thus conducted. I made my official report to Governor Davis that the election had passed off harmoniously and quietly, more like a church convention than an election. In a few days afterward, James Davidson, adjutant general of the State of Texas, in a personal interview, said that he was much pleased with my action and conduct during the election.

Question. Do you know of any instruction as to the use to be made of the special police during the registration and election, in regard to bringing in parties to register and vote?—Answer. When I took charge of the special police during registration, I found the majority of the force employed in hunting up unregistered negroes, and sending them in to register; and was told by F. A. Wilman that the instructions from the governor were that they should be thus employed.

Question. Do you know why Governor Davis and other prominent republicans were so anxious that foreigners who had registered on papers of declaration of intention, should be stricken from the list of registered voters?—Answer. It was the general opinion that they would have been permitted to vote had they voted the republican ticket, but it was generally understood that, if allowed to vote, they would have voted the democratic ticket.

(Cross-examination waived by contestee.)

L. H. McNELLY.

Sworn and subscribed to before me this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

R. W. TARVER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and color?—Answer. Robert W. Tarver; forty-five years old; reside in Washington County, Texas; colored.

Question. Were you or not a member of the board of revision and appeals of Washington County at the late congressional election; when and by whom appointed?—Answer. I was; early part of September, by Governor E. J. Davis.

Question. How long did you serve on said board?—Answer. Five days; resigned on Monday evening, the 2d day of October, 1871.

Question. Who acted on said board with you?—Answer. Tully Kemp and R. A. Harvin. Harvin resigned, and J. W. McCown, senior, was appointed to take his place.

Question. Why did you resign?—Answer. On account of my health.

Question. What action was taken by the board in regard to foreigners who had registered on papers of declaration of intention, as to being stricken off the registration list?—Answer. The action taken, while I was a member of the board was, that they had registered in good faith, and that their names should not be stricken off.

Question. Have you attended all the elections held since all the voting was done at the county-seat?—Answer. Yes, I believe I have.

Question. What has been the practice at previous elections held, in regard to the use of two or more boxes, and two places of voting?—

Answer. It has been the practice of using two boxes since all the elections have been held at the county-seat, the same as at the last congressional election.

Question. Did the use of two boxes tend to promote a full, free, and fair election, or otherwise?—Answer. It did; it gave all a better opportunity to vote.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, to prevent republicans from voting for the candidate of their choice?—Answer. I know of none.

Question. Do you know of any secret political organization in this State or county opposed to the republican party?—Answer. I do not.

Question. To what political party do you belong?—Answer. Republican party, and voted for W. T. Clark.

(Cross-examination waived by contestee.)

P. W. TARVER.

Sworn and subscribed to before me this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

I. B. McFARLAND, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. I. B. McFarland; fifty-two years old; reside in Brenham, Washington County, Texas.

Question. What official position do you occupy; by whom, and when appointed?—Answer. Judge of the twenty-ninth judicial district; nominated by Governor E. J. Davis, and confirmed by the State senate, in July, 1870.

Question. How long have you resided in Texas, and what was your profession before you were appointed to the bench?—Answer. Have been in Texas twenty-six years; and my profession was that of an attorney-at-law.

Question. Were you consulted by the district clerk of Washington County as to the authority of the clerk to issue certificates to parties making declaration of intention to become citizens before him in vacation?—Answer. I was.

Question. What opinion or instruction did you give?—Answer. I gave it as my opinion, they had the right to receive such declaration in vacation, under the law, and issue certificates.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. In Brenham, Washington County, Texas.

Question. Were you not frequently about the polls at an election held at the court-house on those days?—Answer. I was.

Question. How was said election conducted, as to order and fairness?—Answer. As far as I saw, it was conducted as fairly and orderly as any I ever saw.

Question. Did the use of two ballot-boxes, as used on that occasion, tend to promote a full, free, and fair election, or otherwise?—Answer. I think it did tend to promote a full, free, and fair election.

Question. Do you know of any fraud, violence, or intimidation by the contestant or his political friends, whereby any republicans were prevented from casting their ballots for the candidate of their choice?—Answer. I do not.

Question. With what political party have you affiliated for several years past?—Answer. Republican.

Question. Describe the manner of voting, and the place or places for receiving ballots.—Answer. There were two places of receiving ballots, one at the east window, on the outside, at which place most of the colored votes were polled; the other at the door, on the passage; both in the same room, at which place most of the white votes were polled.

Question. Did not white and colored vote at both boxes?—Answer. They did.

(Cross-examination waived by contestee.)

I. B. McFARLAND.

Sworn and subscribed to before me this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned, to meet at Bryan, Brazos County, on Thursday, the 8th day of February, A. D. 1872, by agreement of counsel for both parties.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages, hereto attached, was taken and reduced to writing by me, (with the exception of the testimony of I. M. Onins, J. T. McAdams, and T. G. Davidson, which was reduced to writing by each witness in my presence,) on the 1st, 2d, 3d, and 5th days of February, A. D., 1872, at my office in the city of Brenham, Washington County, Texas, and that the examination was conducted on the part of contestant by him in person, and on the part of contestee by T. G. Davidson, esq.

Given under my hand and official signature, at office in Brenham, this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 9.—*Depositions taken in Brazos County.*

D. C. GIDDINGS *vs.* W. T. CLARK.

In the matter of contested election from third congressional district of Texas, now pending before the Congress of the United States, wherein D. C. Giddings is contestant and W. T. Clark contestee, it is agreed that contestant shall commence taking testimony at Bryan, Brazos County, on the 8th day of February, 1872, before D. G. Worrell, United States commissioner, and may examine all such witnesses as may appear before said commissioner, hereby waiving time and notice of names of witnesses, and all formalities as to manner of taking testimony.

T. G. DAVIDSON,
Attorney for Contestee.
D. C. GIDDINGS,
Contestant.

FEBRUARY 1, 1872.

UNITED STATES OF AMERICA,
Western District of Texas:.

To any legally authorized officer of said district, greeting:

You are hereby commanded to summon the persons whose names appear on the back hereof, residents of the county of Brazos, in said district, personally to be and appear before me, at my office, in the town of Bryan, county of Brazos, on Thursday, the 8th day of February, A. D. 1872, at 9 o'clock a. m. of said day, to give evidence, and the truth to speak, in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress for the third congressional district of said State, in the Forty-second Congress of the United States, and to remain from day to day until discharged by law. Herein fail not, under penalty of the law.

Witness my hand and official signature this 5th day of February, A. D. 1872.

D. G. MORRELL,
United States Commissioner,
Western District of Texas.

[Indorsements.]

R. S. Mottley, P. E. Dickinson, C. F. Moore, H. T. Downard, Thomas McCarty, D. C. Barmore, Hammett Hardy, R. B. Hunt, W. C. Laurance, W. K. Homan, Spencer Ford, John Vernon, Peter Blake, Terrell Mosely, Ben. Brown, W. W. Crook, J. M. Delafield, T. N. Wilson, John W. Tabor.

Came to hand February 5, 1872; executed February 7, 1872.

S. H. Ferrell not found in my district.

T. KEMP,
Deputy U. S. Marshal, Western District Texas.

Deputy Kemp's fees	$9 50
Mileage	85 50
	95 00

TULLY KEMP,
Deputy U. S. Marshal for the Western District of Texas.

OFFICE OF THE UNITED STATES COMMISSIONER,
COURT-HOUSE, BRYAN, BRAZOS COUNTY, TEXAS,
February 8, *A. D.* 1872—9½ o'clock a. m.

Pursuant to application, to notice, and agreement, commission met at the court-house. Present: D. G. Worrell, United States commissioner; T. Kemp, deputy United States marshal; D. C. Giddings, contestant; Thos. G. Davidson, attorney for contestee, who had agreed to be present. Having informed contestant of his inability to do so, I proceed to take the testimony for contestant of the following witnesses:

H. T. DOWNARD, a witness in behalf of the contestant, being duly sworn, testifies as follows:

Question. What is your name, age, place of residence, and how long

have you resided there?—Answer. H. T. Downard; fifty-two years old; Bryan, Brazos County, Texas; resided in Texas fourteen or fifteen years.

Question. What official position do you hold; when and by whom appointed?—Answer. I am mayor of the city of Bryan; appointed August, 1870, by E. J. Davis, governor. Have been a member of the board of appeals for Brazos County since the last two years, and acted as such at the last congressional election.

Question. How was the last congressional election, held on the 3d, 4th, 5th, and 6th days of October, 1871, conducted; peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, fairly, and quietly, as far as I know of. If there was anything wrong I don't know of it. The only irregularity I know of was the numbering of the tickets, which was in accordance with the old law. I have been in the habit of holding elections several times while in Texas, and had not noticed the new law sufficiently to know that it had been changed in that respect.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were deterred from voting for the candidate of his choice?—Answer. I know of none.

Question. Examine the certified copy of election returns, and identify the same by writing your name across the back of same, with that of the commissioner before whom these depositions are being taken.—Answer. It is correct; and I write my name across the back to identify the same.

THE STATE OF TEXAS, *County of Brazos:*

We, the undersigned judges of election and registrar, acting for an election for the county of Brazos, in said State, pursuant to proclamation by his excellency E. J. Davis, governor of the State of Texas, commencing on the 3d day of October and ending on the 6th day of October, 1871, do solemnly swear that 2,284 voters cast their votes or ballots at said election; that the foregoing pages, from 1 to 64, inclusive, contains a true and correct list of said voters' names; that the foregoing tally-list found on pages 84 and 85 is a true and accurate tally-list and count of said votes; that D. C. Giddings received at said election 1,233 votes; W. T. Clark received at said election 1,059; A. G. Prewett received at said election, for justice of the peace, precinct No. 1, in said Brazos County, 1,214 votes; A. T. Heth received at said election, for justice of the peace, precinct No. 1, in said Brazos County, 1,004 votes; W. P. Hassell received at said election, for justice of the peace, precinct No. 2, in said Brazos County, 1,213 votes; Kelsy Carter received at said election, for justice of the peace, precinct No. 2, in said Brazos County, 1,041 votes; that the foregoing is a true and correct statement of the said election, to the best of our knowledge and belief: so help us God.

H. T. DOWNARD,
THOS. McCARTY,
H. A. MOORE,
Judges.

S. H. TERRELL,
Registrar.

Sworn to and subscribed to before me this the 7th day of October, A. D. 1871.

HAMMETT HARDY,
Justice of the Peace, Brazos County.

STATE OF TEXAS, *Brazos County:*

I, C. F. Moore, clerk of the district court in and for Brazos County, Texas, do hereby certify that the foregoing is a true and correct copy of the original certificate of the judges and registrar to the poll-book, or returns of an election held in Brazos County, Texas, commencing on the 3d day of October, A. D. 1871, and continuing for four days.

To which I certify under my hand and official seal, this the 15th November, 1871.

[SEAL.]

C. F. MOORE,
Clerk District Court.
By S. H. TERRELL,
Deputy.

Indorsed on the back: H. T. Downard, Thomas McCarty. D. G. Worrell, United States commissioner, western district Texas.

Question. Were any ballots received by the judges of the election of any party or parties who were not registered citizens of Brazos County?—Answer. None, to my knowledge.

Question. Do you recollect the number of names stricken off the registration list by the board of appeals, at the last congressional election?—Answer. I do not recollect the number that was stricken off; some because they had registered upon papers declaring intention to become citizens before the district clerk during vacation. These were not allowed to vote; some whose names had been stricken off by the board of appeals were allowed to vote, upon affidavit that they had taken out their final papers, and had lost the same.

Question. Were or were not the election orders of Governor Davis obeyed in Brazos County?—Answer. I think the election order was carried out in spirit to the very letter.

Question. Did you ever see a more quiet or peaceable election?—Answer. I never did. I believe I could have kept perfect order with one policeman.

Question. With what political party did you affiliate during the last congressional election, and for whom did you vote?—Answer. With the republican; have always been a republican, and voted for General Clark, and wanted him elected.

Question. Did you take an active part in behalf of the republican nominee at the late congressional election?—Answer. I did not take a very active part on account of my health. I did what I could about home to beat contestant, but wanted him beaten fairly.

H. T. DOWNARD.

Sworn and subscribed to before me at Bryan, Brazos County, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

THOMAS MCCARTY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Thomas McCarty; fifty-four years old; Bryan, Brazos County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, and in what capacity were you acting?—Answer. In Bryan; and was acting as a member of the board of appeals, and assisted in conducting the election held on those days.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. It was one of the most quiet, peaceable, and fair elections I ever saw held.

Question. Was there any fraud, violence, or intimidation used by contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None.

Question. Examine the certified copy of the returns of said election, and state whether or not the same is a correct copy, and identify the same by writing your name across the back of the same.—Answer. I have examined the copy, and find it correct, to identify which I write my name across the back thereof, together with the name of the commissioner before whom these depositions are being taken.

Question. Did you make any other report or return than the one shown you?—Answer. I did not, nor was any made by any other member of the board, to my knowledge.

Question. Were there any ballots received from any parties whose

names were not upon the registration list of Brazos County?—Answer. There was not. We rejected every vote where a party's name could not be found on the registration list.

Question. How many names were stricken from the registration list during the time you were a member of the board of appeals, and for what causes were they stricken off?—Answer. There was quite a number stricken off; can't recollect the exact number; some were stricken off because they had moved into other counties, and others because they had been registered upon papers of declaration of intention to become citizens, upon certificates from the clerk of the district court during vacation.

Question. Were these parties who had registered upon their declaration papers to become citizens allowed to vote, or were their votes rejected?—Answer. They were rejected. Some who made affidavit of the loss of their final naturalization papers were allowed to vote.

Question. When and by whom were you appointed a member of the board of revision and appeals?—Answer. I was appointed by Governor Davis, some time in September, 1871.

Question. With what political party have you affiliated?—Answer. I am an old-line whig, and a conservative in politics.

Question. Who was the registrar and the other members of the board of appeals that acted with you at the last election?—Answer. S. H. Terrell, registrar, myself, H. T. Downard, H. A. Moore, were the members of the board of appeals and judges of the election.

Question. Do you know where Terrell is at present?—Answer. I do not know; I understand that he is in Eastern Texas.

Question. Were or not the ballots numbered at the late congressional election?—Answer. They were numbered to correspond with the number of the voter on the poll-list, with the previous election law, which had been the custom in Texas for a long time; and the judges did not know that it was in violation of the law to number the tickets. Our attention was called to it on the third or fourth day of the election. We concluded it was the fairest way of conducting the election, and continued as we had commenced. There was no intention on the part of any member of the board to violate any part of the law.

THOMAS McCARTY.

Sworn and subscribed to before me at Bryan, Brazos County, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

D. C. BARMORE, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. D. C. Barmore; forty-six years old; Bryan, Brazos County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, and in what capacity were you acting?—Answer. I was in Bryan, and acted as a clerk of the election held on those days.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and fairly; as much so as any election I ever saw. I have been in the habit of acting either as judge or clerk of more or less of all elections held since I have been old enough to vote.

Question. Was there any fraud, violence, or intimidation practiced by

contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. There was none that came to my knowledge; if any one was prevented voting his sentiments, I do not know it.

Question. With what political party have you affiliated?—Answer. I am an old-line whig, and voted for Clark at the late election. I am not a democrat; they charge me with being a radical.

Question. Were any votes received from parties who were not duly registered?—Answer. There was not.

Question. Were the ballots numbered, and why was this done?—Answer. They were. It was in accordance with the old law, and the custom of holding elections. My attention had not been called to the change of the law in this respect, nor do I think the other members of the board were aware of the fact, until Mr. C. T. Evans came to vote; he stated the board had no right to number the ballots. It seemed to be a matter of surprise to the board, and I contended that it was right and legal to number them, in accordance with the old law—not having seen the new law. After the board examined the new law, we concluded it was too late to remedy it, and went on numbering as we had commenced. Before board had time to examine into the facts and law, more than half of the votes had been polled. Eleven hundred and twenty-six votes had been polled before the question was raised, and there being a press of voting, the board had not time to examine into the law.

Question. Was the numbering of the votes in ignorance of the new election law on the part of the board, or was it in disregard of the same?—Answer. It was in ignorance of the new law; and I don't think there was any one connected with the election that had any intention of doing anything illegal or unfair.

Question. Were any parties who had registered on papers of declaration of intention to become citizens permitted to vote?—Answer. There was not. I don't think a single one who had made declaration of intention to become citizens before the clerk of the district court in vacation, were permitted to vote; they were all rejected; some ten or twelve who made affidavit before the presiding justice that they had taken out their final papers of naturalization, and had lost the same, were permitted to vote.

D. C. BARMORE.

Sworn and subscribed to before me at Bryan, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

TERRELL MOSELY, (colored,) a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Terrell Mosely; about thirty; Brazos County, Wilkinson and Crook's plantation.

Question. Did you vote at the last congressional election, and for whom?—Answer. I did. I voted for Clark.

Question. Was any of the freedmen prevented from voting the republican ticket, or not?—Answer. There was not. They all had a chance to vote for whoever they wanted to.

Question. Where were you living at the time of the registration and election?—Answer. On the plantation of Wilkinson and Crook.

Question. Did Wilkinson and Crook or anybody else attempt to induce you or other freedmen to vote the democratic ticket?—Answer. They did not. They told us from the first to vote as we pleased; they did not care how.

his
TERRELL + MOSELY.
mark.

Sworn and subscribed to before me this 8th day of February, A. D. 1872, Bryan, Texas.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

BEN. BROWN, (colored,) a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Ben. Brown; twenty-two years old; reside at Mr. James Wilkinson's, Brazos County.

Question. Did any one force you to vote against your will at the last congressional election?—Answer. No, sir.

Question. Did Jim Wilkinson make any threats against colored men voting the republican ticket?—Answer. No, sir.

Question. Do you know of any colored men on the plantation of Jim Wilkinson, or Wilkinson and Crook, T. D. Wilson, J. G. Gorman, being prevented from voting the republican ticket?—Answer. I do not. They told us that those of us who did not have horses, they would furnish us mules, and to go to the election and vote as we please.

Question. Did you make any statements in relation to threats made against you and other freedmen before S. H. Ferrell?—Answer. I did not.

Question. Did you make any statement before any person in regard to threats made against you or any other freedman during the last election?—Answer. No, sir; Prince, a policeman, and John White, police, (both colored,) came after me to go to Captain Baldridge's office, the chief of police of this county; that Captain Baldridge wanted to see me; and they marched me off to his office, and after going in the house Captain Baldridge locked the door, and asked me whose place I lived on; I told him Jim Wilkinson. He then asked me if Jim Wilkinson had made any threats to prevent me or any one else from voting the radical ticket; I told him, no; that Mr. Wilkinson had told me that all the freedmen that did not have horses could take mules, and go to the election and vote for whom they pleased. Mr. Baldridge then unlocked the door and let me out. I have listened to the reading of an affidavit purporting to have been made by me before S. H. Terrell on the 5th day of October, A. D. 1871, and identified by being marked on the margin A, with the signature of the commissioner taking these depositions; and I state that I never made any such statement before anybody, but stated to them just as I have stated in my previous answers.

his
BEN. + BROWN.
mark.

Sworn and subscribed to before me this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

R. S. MOTTLEY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. R. S. Mottley; thirty-one years old; reside in Brazos County, Texas.

Question. Did you attend the election for member of Congress in October last?—Answer. I did the first day.

Question. How was the election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and as fairly as any election I ever saw.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were deterred from voting for the candidates of their choice?—Answer. I know of none.

Question. What course was pursued by Jim Wilkinson, Wilkinson & Crook, T. D. Wilson, J. G. Gorman, and yourself, in regard to the voting of the colored men?—Answer. We all told them that they had a right to vote as they chose, and did not try to prevent them from voting the radical ticket, but told them we would prefer they would vote the democratic ticket. We knew at the same time they would not vote the democratic ticket.

Question. Were there any threats by democrats to prevent parties from voting the republican ticket, or bribes offered to induce them to vote the democratic ticket, and your means of knowing the same?—Answer. None, to my knowledge; nor have I heard of any. I am justice of the peace of precinct No. 5, in which a majority of the colored people of this county reside, and if there had been any complaints made, I would have known it.

R. S. MOTTLEY.

Sworn and subscribed to before me, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

W. W. CROOK, a witness in behalf of contestant, being duly sworn says:

Question. What is your name, age, and place of residence?—Answer. W. W. Crooks; thirty years old; reside in Brazos County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was at my home on the first two days; on the 5th and 6th I was in Bryan, Brazos County, attending the election then being held for member of Congress.

Question. How was the election conducted—peaceably, fairly, and quietly, or otherwise?—Answer. It was conducted peaceably, fairly, quietly; as much so as any election that I ever saw.

Question. What is your occupation, and how many acres of land do you cultivate?—Answer. Farming; cultivate about 1,000 acres.

Question. How many renters or tenants did you employ or have on your plantation last year?—Answer. About seventy-five or eighty; some ten or twelve whites, the balance colored.

Question. Do you live in as thickly settled portion of Brazos County as there is in the county by the colored portion of the county?—Answer. I do.

Question. Was there any fraud, violence, or intimidation used by contestant or any of his political friends, whereby republicans were

prevented from voting for the candidate of their choice, and state your means of information?—Answer. There was not. I reside in one of the heaviest negro districts in Brazos County. Having business with many of them, and on the two first days of the election (3d and 4th) was in charge of a store situated on the road from Brazos Bottom to Bryan, the place of voting, at which many of the negroes, or nearly all from the Bottom had to pass in going to the polls, nearly all of which stopped and expressed themselves as having voted as they pleased, and that nearly all of them voted the radical ticket; that I am personally acquainted with most of the negroes in my neighborhood, nearly all of whom voted. Out of a population of 250 voters, I know of but two who did not go to the polls and vote, and they were not kept away from intimidation.

Question. What was the comparative vote at the last congressional election, as compared with other elections previous to that time and since?—Answer. It was a very full vote, and greatly more votes polled than ever was at any previous election.

W. W. CROOK.

Sworn and subscribed to before me, at Bryan, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. M. DELAFIELD, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. J. M. Delafield; thirty-nine years old; Brazos County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. On the 3d I was at Bryan, on the 4th and 5th I was at my home, on the 6th I was in Bryan.

Question. How was the election conducted?—Answer. On the 3d, the day I was at Bryan, the election was conducted as peaceably as any election as I ever saw. There was no intimidation; parties, both white and black, went to the polls and voted as they pleased.

Question. Do you know of any fraud, violence, or intimidation, on the part of the contestant or any of his political friends, whereby any republicans were deterred from voting for the candidates of their choice?—Answer. I know of none. I am a planter; have seventy-five or eighty voters on my plantation, all of which are colored, and all voted with the exception of two. I encouraged them to come to town and vote for whom they pleased, and offered to furnish mules for any that had no horses to come to town with. They did come, and all but two voted the radical ticket.

Question. Had there been any threats or intimidation used toward the negroes on your plantation, or the adjoining one, would you not have known it?—Answer. I certainly would have known it. I know of none, nor heard of any.

J. M. DELAFIELD.

Sworn and subscribed to before me this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

T. D. WILSON, a witness in behalf of the contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Texas?—Answer. T. D. Wilson; fifty-nine years old; Brazos County, Texas; have resided in Texas thirty-three years, and in Brazos County fifteen or sixteen years.

Question. What has been your occupation?—Answer. Have been a planter.

Question. How many voters were on your plantation in the year 1871?—Answer. From seventy to eighty, all colored.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, at an election held for member of Congress?—Answer. I was at Bryan, and sat around the polls nearly all the time.

Question. How was said election conducted—peaceably, quietly, and fairly, or not?—Answer. It was conducted fairly, peaceably, and quietly, as much so as any election as I ever saw.

Question. Was there any fraud, violence, or intimidation used by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. There was none.

Question. Were any of the voters on your place prevented from voting for the candidate of their choice by threats or bribery?—Answer. There was not. And all voted, with the exception of four; and two of them came to town and were around the polls; and all who voted voted the radical ticket except two.

Question. How many special police were on duty in Brazos County during the election and registration, and how were they employed?—Answer. I don't know the exact number on duty, but know that a great number of them were employed in scouring the country to bring in negroes to register and vote.

Question. Have you heard prominent republicans express themselves as to the manner in which the late congressional election in Brazos County had been conducted?—Answer. I heard B. F. Baldridge (sergeant of State police, and in charge of police during registration and election) admit that it was a fair election, and the republican party was fairly beaten.

THOMAS D. WILSON.

Sworn and subscribed to before me this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

C. F. MOORE, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. C. F. Moore; twenty-nine years old; Bryan, Brazos County, Texas.

Question. What official position do you hold, and how long have you filled the same?—Answer. Clerk of the district court of Brazos County, and have held the same for the past two years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871; and was not an election held at the court-house during those days for a member of Congress, and was not said election conducted peaceably, fairly, quietly, or otherwise?—Answer. At the court-house, Bryan, Brazos County; there was an election held on those days; it was conducted peaceably, quietly, and fairly.

Question. Was there any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None that I know of.

Question. With what political party did you act during said election?—Answer. The republican party.

Question. Did you or not take an active part in said election?—Answer. I did.

Question. Have any statements of fraud or violence or intimidation been filed with you or in your office?—Answer. None.

C. F. MOORE.

Sworn and subscribed to before me this 8th day of February, 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Five p. m., adjourned until Friday morning at 9 a. m.

UNITED STATES COMMISSIONER'S OFFICE,
At Court-House, Bryan, Brazos County, Texas.

Met, pursuant to adjournment, Friday, February 9, 1872, 9 o'clock. Present, D. G. Worrell, United States commissioner; D. C. Giddings, contestant.

HAMMETT HARDY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Hammett Hardy; age, thirty-three; Bryan, Brazos County, Texas.

Question. What official positions have you held since 1867, and what official position do you hold now?—Answer. I was district clerk in 1867, 1868, and portion of 1869; also deputy assessor and collector of State and county taxes during the same years, and was elected, at the general election in 1869, presiding justice of Brazos County, and have filled said office ever since.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. I was at the court-house in Bryan, Brazos County, in attendance at the election during the entire four days.

Question. How was said election conducted; peaceably, quietly, and fairly, or otherwise?—Answer. Said election was conducted in a peaceable, quiet, and fair manner, as much so as any election I ever attended.

Question. Was there any fraud, violence, or intimidation used by the contestant, or any of his political friends, whereby any republicans were prevented from voting for the candidate of their choice?—Answer. None whatever, as far as I knew of. I took an active part during the election; was mingling with the crowd during the whole time. I should have known had there been any. I frequently heard prominent democrats say to the negroes to vote for whom they pleased. The democrats were in a majority in this county, and would carry the county any way, let the negroes vote for any one.

Question. Have you examined the registration list of Brazos County; and if so, what is the majority of white votes in the county?—Answer. I have, and at the last election, to the best of my knowledge, the whites had about 170 to 175 majority.

Question. How did the whites and blacks generally vote at the late

congressional election?—Answer. The whites generally voted for D. C. Giddings, and the blacks for W. T. Clark. There were about twenty-five white men voted the republican ticket, and about fifty negroes voted the democratic ticket. The negroes voted striped-back ticket—red and white stripes.

Question. Were or not persons who had registered upon papers of declaration of intention to become citizens, stricken from the registration list, and were any of such allowed to vote?—Answer. Their votes were rejected. I was told by the members of the board of appeals that their names had been stricken from the registration list.

Question. It is stated in the depositions of the judges of said election that some foreigners were allowed to vote upon their affidavit made before the chief justice of said county, as to the loss of their final papers of naturalization. State whether or not you are not the person before whom said affidavits were made; and if so, attach a blank copy of said affidavit to your answer. —Answer. I am the person before whom those affidavits were made, and I attach a blank copy hereto, writing my name across the back of it to identify the same.

STATE OF TEXAS, *Brazos County:*

Before the undersigned authority this day personally appeared ——— ———, who being duly sworn, on oath says: That he is a naturalized citizen of the United States of America according to the laws thereof; that he took out his naturalization papers in the county of ———, State of ———, on the —— day of ———, A. D. 187–, and that said papers have been lost or mislaid and cannot now be found.

——— ———.

Sworn to and subscribed to before me this the —— day of ———, A. D. 1871.

HAMMETT HARDY,
Justice of the Peace, Brazos County.

Indorsed on the back: "Hammett Hardy. D. G. Worrell, United States commissioner, western district Texas."

Question. How did the vote of Brazos County, at the last congressional election, compare with previous elections held since the emancipation?—Answer. At the late congressional election the entire vote of both parties was brought out. At former elections there has not been more than half of the whites registered, and the entire republican vote was polled; and since previous elections there has been a large immigration of whites to the county.

Question. How many special police were on duty during registration and election; and how was said police employed? State what was said to you by the chief of police on the subject.—Answer. There were nineteen commissioned, not more than three or four of which was in attendance around the polls at one time; the balance I could see coming in at different times with crowds of colored voters. On the second or third day of the election I heard that Baldridge, sergeant commanding special police, had stated that a number of negroes on Colonel T. D. Wilson's place and Wilkinson and Crook's place, and at Jim Wilkinson's, were afraid to come out and vote. I went to Sergeant Baldridge and told him, if he would select a policeman to go with me the next day to those places, that I would go with him and we would bring out all the negroes that wanted to come to vote, and that they should vote for whom they pleased. He stated that he would have a man ready the next morning. On the next morning I went to him and asked him if he had the man ready to go to the bottom on those places to bring out the negroes. He stated that it was unnecessary to go, as he had heard from the bottom, and he had learned that all the negroes, with

the exception of three or four, had come out and voted, and they were democratic negroes.

Question. Did you hear any prominent republicans express themselves during the election, or after the close of the election, as to the manner said election had been conducted in Brazos County?—Answer. I have heard them express themselves, both during the election and after, that it had been conducted fairly, and that Clark was fairly beaten; that it had been fairly held. I also heard a prominent republican say that in making his estimates of the vote in the different counties, before the election, that he had conceded Brazos County to the democracy by 150 majority.

HAMMETT HARDY.

Sworn and subscribed to before me this 9th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOHN W. TABOR, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Texas?—Answer. John W. Tabor; forty-nine years old; reside in Brazos County; in Texas thirteen years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. Bryan, Brazos County, Texas.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and fairly—as much so as any election I ever saw.

Question. Do you know of any fraud, violence, or intimidation used by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. Not directly or indirectly; every one, both white and black, had the privilege of voting for whom they pleased.

Question. Examine the affidavit made by one Sam Lott before H. T. Downard, notary public of Brazos County, marked B, and dated the 6th day of October, 1871, and state whether you made the threats therein contained, and whether or not any portion of the affidavit is true. Identify the same by writing your name on the margin thereof.—Answer. I have examined the affidavit, and state the entire affidavit to be false. And to identify the same, I write my name upon the margin thereof.

JOHN W. TABOR.

Sworn and subscribed to before me this 9th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

SPENCER FORD, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Spencer Ford; forty-two years; reside in Bryan, Brazos County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the last congressional election, and in what capacity were you acting?—Answer. I was in Bryan, in attendance upon the election being held on those days, and was present with the judges of

election as a citizen, under the proclamation of the governor authorizing the judges of election to select a citizen from each party to be present.

Question. How was said election conducted—peaceably, fairly, and quietly, or otherwise?—Answer. It was conducted peaceably, quietly, and with entire good order and fairness, as far as I observed, except in the casting of two or three illegal votes for Clark, which occurred as follows: When Clem Connor, a freedman, offered to vote, he did not produce his registration certificate. B. F. Baldridge, sergeant, commanding State police, examined the registration book, and reported to the judges of the election that he found Clem Connor's name in the list of registered voters contained in said book, and he was permitted to vote. Afterward, on having their attention called to the matter again, the judges caused the registration-book to be examined again, and it was found that Clem Connor's name was not on the book as Baldridge had reported.

Question. Were the tickets at said election numbered; and [if so, why was it done?—Answer. They were. The judges and clerks of the election were under the impression, when the election commenced, that such was the requirement of the law. The attention of the judges of the election as to the change in the law was first called by C. I. Evans, who was a democrat, and who claimed the judges had no right to number the tickets; the votes were being rapidly taken at the time, and the law could not in consequence be examined then, and when it was examined the election had progressed so far that the judges of the election thought it best to make no change in the manner of receiving votes.

Question. Did this numbering of the ballots destroy the secrecy of the ballot-box? And give your reasons for your opinion.—Answer. I think not; for the reason that each party had tickets of different colors easily distinguished, which were used almost exclusively, and the character of the vote could generally be determined by the color of the ticket voted.

Question. Do you know of any fraud, violence, or intimidation used by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I do not.

Question. Did you hear prominent republicans at the election and after the close, express themselves as to the manner in which the election was conducted, and how did they express themselves?—Answer. I did. They said it was fairly conducted. I also heard prominent republicans express themselves that contestant would carry Brazos County by about 150 majority.

Question. Did you hear any prominent republican express himself as to the result, and who would obtain the certificate of election?—Answer. On the morning after the election I heard a prominent republican and a judge of the election express the opinion that, whatever might be the result of the election, Clark would get his certificate of election from the governor.

Question. What was the policy of leading democrats of the county in relation to efforts to influence the votes of the freedmen, and as to the manner of conducting the election?—Answer. It was the policy that no special effort should be made to influence the freedmen votes for the democratic party, there being not more than twenty or twenty-five white republicans in the county, and it being known that the democrats had a majority in the county, it was thought best that we should carry the election without their aid, and they were, so far as I know, they

were universally told by democrats to vote just as they pleased. I saw continually, during the entire election, the colored people and their employers coming up together, side by side, the freedmen voting the radical ticket, almost invariably, and their employers voting the democratic ticket.

SPENCER FORD.

Sworn and subscribed to before me this 9th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

By agreement, adjourned at 12.15 p. m., the 9th day of February, A. D. 1872, to meet at Calvert, Robertson County, at 9 a. m. of the 10th of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

No. 10.

JOHN VERNON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John Vernon; age forty-three; reside in Madison County, Texas; have resided in Madison County three years, and in Texas twenty-one years.

Question. What official position do you hold?—Answer. Justice of the peace of precinct No. 5, Madison County.

Question. Were you present, at the court-house of Madison County, at an election held on the 3d, 4th, 5th, and 6th days of October last, for a member of Congress?—Answer. I was present on the 3d and 4th.

Question. How was said election conducted, peaceably, fairly, and quietly, or otherwise?—Answer. So far as I know, it was conducted fairly, peaceably, and quietly; it was the most quiet and peaceable election that I ever saw held. The democratic or white vote is about two-thirds majority in the county; on the first and second days they voted turn about, two whites and two colored, until the colored voters had all voted, some of the whites returned home on the first day without having an opportunity of voting, and did not return.

Question. What was the vote for each of the candidates at the last congressional election in Madison County?—Answer. I was not present when the vote was counted, but my information is that W. T. Clark received 161 and D. C. Giddings 429.

Question. Was there any fraud, violence, or intimidation practiced by the contestant, or any of his political friends, whereby any republicans were prevented from voting for the candidate of his choice?—Answer. None to my knowledge; that in preliminary meetings of the democratic party previous to the election pledging themselves to submit to all manner of indignities, in order that there should be no disturbance of any kind, and that the election should be fairly conducted, and there should be no excuse for setting aside the election.

Question. With what political party have you affiliated?—Answer.

With the republican party until I saw the election orders of Governor Davis, issued just before the last congressional election.

JOHN VERNON.

Sworn and subscribed to before me, at Bryan, Brazos County, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. W. BARRETT, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence; and how long have you resided in Texas?—Answer. J. W. Barrett; fifty-nine years old; reside in Madison County, Texas; and have resided in Texas thirty-six years.

Question. Where were you during the registration and the late congressional election?—Answer. In Madisonville, Madison County, Texas.

Question. How was the election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably and quietly. No one seemed to take any authority except the registrar, who endeavored to force the colored men to vote for W. T. Clark.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I know of none. On the contrary, the friends of contestant advised the colored men and republicans to vote as they pleased, and used no influence to control their vote.

Question. To which political party did the registrar and judges of the election belong?—Answer. The registrar and McMahon, one of the judges, was republicans and Clark men. There was but four white men, including the registrar, in the county. The registrar was not a citizen of the county—was sent there at the commencement of the registration, to take charge.

Question. Do you know of persons being refused registration who were entitled to register; and for what reasons?—Answer. I know of one, a colored man, who applied to the register and was refused, because he stated he was going to vote for Giddings.

Question. Please examine the certified copy of the district clerk, and state whether it shows the correct result of said election.—Answer. I have examined the certified copy, and it shows the correct result of said election. I identify the same by writing my name on the back thereof, together with that of the commissioner before whom these depositions are being taken.

THE STATE OF TEXAS, *County of Madison:*

I, J. D. McMahon, clerk of the district court of the county of Madison and State of Texas, do hereby certify that, at an election for members of Congress of the third congressional district of this State, held in and for said county, at the town of Madisonville, on the 3d, 4th, 5th, and 6th days of October, A. D. 1871, the following vote was polled, to wit: D. C. Giddings received 429 votes; William T. Clark received 161 votes; total votes polled, 590, as per the returns of the registrar, judges, and clerks of said election, now on file in my office.

To certify which, I hereunto subscribe my name and affix the seal of my office, at office in the town of Madisonville, this the 18th day of November, A. D. 1871.

[SEAL.]

J. D MCMAHON,
Clerk District Court, Madison County.
By R. MAHORNER,
Deputy.

Indorsed on the back: "J. W. Barrett. D. G. Worrell, United States commissioner, western district Texas."

Question. Do you know of any breaches of the peace in said county during said election?—Answer. I do not; it was the most peaceable and quiet election I ever saw.

Question. Did you hear any prominent republicans express themselves as to the result of said election, and who would get the certificate? and state who they were.—Answer. I did. I heard Whitney, the registrar, say he did not know how the vote might be, but he did know who would get the certificate of election; that he knew that Clark would get it, no matter what the vote might be.

J. W. BARRETT.

Sworn and subscribed to before me this 16th day of February, A. D. 1872, at Anderson, Grimes County.

D. G. WORRELL,
United States Commissioner, Western District Texas.

PETER BLAKE, (colored,) a witness on behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Peter Blake; about fifty-one or fifty-two; reside in Burleson County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. I was at the court-house in Caldwell, Burleson County, during the whole time the election was going on.

Question. In what capacity was you acting?—Answer. I was a special policeman during the registration and election.

Question. How was said election conducted—peaceably, fairly, quietly, or otherwise?—Answer. As far as I know, peaceably, fairly, and quietly; as much so as any election I ever saw. I was present all the time the polls were open. Had there been any fraud or violence I would have known it.

Question. Were not the special police, during the registration and election, used to ride over the county to bring in colored men to register and vote; and to what political party do you belong?—Answer. They were; radical.

his
PETER + BLAKE.
mark.

Sworn and subscribed to before me at Bryan, Brazos County, this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 11.—*Depositions of Milam County witnesses.*

W. C. LAWRENCE, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. C. Lawrence; forty years old; reside in Milam County, and have resided there twenty years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was in Cameron, Milam County, on the 4th day of October, at an election for member of Congress.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Quietly, peaceably, and fairly. There was some intimidation practiced by negro State police upon colored men, to induce them to vote the radical ticket. I saw one colored policeman knock Stephen Thiges, a colored man, down with his six-shooter, because he would not give up his democratic ticket. With this exception, the election in Milam County was the most peaceable, quiet, and orderly election I ever saw.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby any republicans were deterred from voting for the candidates of their choice?—Answer. I do not; there was none. It was generally understood throughout the county, and resolutions were passed that the democrats would submit to all sorts of indignities during the registration and election, in order to have a quiet and fair election; so as to give the radical party no pretext to reject the vote, as has been done before, the county being a strong democratic county.

Question. How were the special police in Milam County used during registration and election?—Answer. They were used to police the town and guard the polls.

Question. Were the election orders of Governor Davis obeyed during the election in Milam County?—Answer. They were observed. No arrests were made or attempted.

W. C. LAWRENCE.

Sworn and subscribed to before me this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

W. K. HOMAN, a witness on behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. K. Homan; twenty-four years old; resided in Milam County at the time of the last congressional election.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. On the 3d, 4th, 5th and up to 12 m. of the 6th, I was at Cameron, in Milam County.

Question. Was there, or not, an election held at that place on said days; and if so, how was said election conducted?—Answer. There was an election held for a member of Congress, and I spent most of my time about the court-house, where the election was being held; and so far as I saw, the election was conducted peaceably and quietly and fairly, with the exception that two negroes, whose former owners stated they were not twenty-one years old—but still they were allowed to vote, and voted for W. T. Clark.

Question. Please examine the certified copy of the election returns and state whether it is correct or not, and identify the same by writing your name on the back thereof.—Answer. I have examined it, and find it correct and to correspond with the result as given me by the judges of the election when the votes were counted out. I was then editor of the Milam Telegram, and identify the same by writing my name on the back thereof.

Return of an election held, in accordance with the proclamation of the governor, commencing on the 3d day of October, A. D. 1871, and continuing four consecutive days, in Milam County, State of Texas, for election of a Representative from the third congressional district of Texas, and a justice of the peace in Milam County.

Mr. D. C. Giddings received 976 votes for Congress; W. T. Clark received 299.

Mr. W. A. Fergerson received 838 votes for justice of the peace; Mr. P. Hurst received 293.

We, the undersigned, judges of election and registrar in the county of Milam, do hereby certify that the above is a correct return of the election for a Representative from the third congressional district of Texas, and a justice of the peace for the county of Milam, held at Cameron, in said county, on the 3d, 4th, 5th, and 6th days of October, 1871.

W. D. JACKSON,
DAVID MEYER,
JOHN G. WILSON,
Judges of Election.
R. VAN SLYKE,
Registrar.

Sworn to and subscribed before me, a notary public for said county, at Cameron, Texas, this 7th of October, 1871.

JAMES B. MOORE,
Notary Public, Milam County, Texas.

Indorsed on the back: "W. K. Homan. D. G. Worrell, United States commissioner, western district Texas."

Question. What was the conduct of the special police during the late registration and election in Milam County?—Answer. This special police was composed of negroes, and when the negroes would come in would be met by this special police and the sheriff of the county, B. I. Arnold, and if they had democratic tickets they were taken away from them and Clark tickets given to them, and the police would then accompany them to the polls and see that they voted the said ticket.

Question. Did you ever hear any prominent republicans of Brazos or other counties make any statement in relation in which the election in Brazos County was conducted?—Answer. Some two days after the close of the election I traveled on the Central Railroad from Bryan to Houston in company with B. F. Baldridge, sergeant of State police, who was in command of special police in Brazos County during registration and election, and who is an extreme radical, who in conversation stated that the election in Brazos County had been peaceably and fairly conducted, and that the radical party was fairly beaten in Brazos County at said election. Similar statements were made to me by the sheriff and registrar of Milam County, and by Ned Butler, of Robertson County, all of whom are extreme radicals and supporters of Clark.

Question. What official position have you held since 1865?—Answer. Eighteen hundred and sixty-seven and 1868 I was clerk of the board of registration of Milam County; was clerk of the county court of Milam County from 1868, 1869, and 1870, by appointment of General Reynolds.

W. K. HOMAN.

Sworn and subscribed to before me this 8th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages,

hereto attached, was taken and reduced to writing by me on the 8th and 9th days of February, A. D. 1872, at my office in the city of Bryan, Brazos County, Texas; that the examination was conducted on the part of contestant, D. C. Giddings, by himself in person; that W. T. Clark, contestee, was not represented.

Given under my hand and official signature, at office, in the city of Bryan, Brazos County, on the 9th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 12.—*Depositions taken in Robertson County.*

D. C. GIDDINGS
vs.
W. T. CLARK.

In the matter of contested election from third congressional district of Texas, now pending before the Congress of the United States, wherein D. C. Giddings is contestant and W. T. Clark is contestee, it is agreed that contestant shall commence taking testimony at Calvert, Robertson County, on the 10th day of February, 1872, before D. G. Worrell, United States commissioner, and that he may examine all such witnesses as may appear before said commissioner, hereby waiving time, notice of names of witnesses, and all formalities as to manner of taking testimony.

T. G. DAVIDSON,
Attorney for Contestee.
D. C. GIDDINGS,
Contestant.

FEBRUARY 1, 1872.

UNITED STATES OF AMERICA;
Western district of Texas:

To any legally authorized officer of said district, greeting:

You are hereby commanded to summon the persons whose names appear on the back hereof, residents of the county of Robertson, in said district, personally to be and appear before me, at my office in the town of Calvert, county of Robertson, on Saturday, the 10th day of February, A. D. 1872, at 9 o'clock a. m. of said day, to give evidence, and the truth to speak, in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress for the third congressional district of said State, in the Forty-second Congress of the United States, and to remain from day to day until discharged by law. Herein fail not, under penalty of the law.

Witness my hand and official signature, this 5th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

[Indorsement.]

B. F. Hammond, Ned Butler, J. R. Scott, W. H. Hammond, C. Hurtel, C. Ancheeks, S. A. Waldren, I. B. Ellison, Robert Roland, W. P. Townsand, George McKnight, H. L. Haynes, G. L. Whitmore, R. B. Wallace.

Came to hand, February 5, 1862; executed, February 8, 1872.

Deputy marshal Kemp's fees	$7 00
Mileage	84 00
	91 00

TULLY KEMP,
Deputy United States Marshal for the Western District of Texas.

UNITED STATES COMMISSIONER'S OFFICE,
Calvert, Texas.

Met pursuant to adjournment at 9 o'clock a. m., February 10, 1872; present, D. G. Worrell, United States commissioner; D. C. Giddings, contestant.

GEORGE MCKNIGHT, F. M. C., a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, color, and place of residence?—Answer. George McKnight; about thirty-six years old; am colored; and reside at Calvert, Robertson County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. In Calvert, Robertson County, Texas.

Question. Do you know of any fraud, violence, or intimidation used by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of none.

Question. Do you know of any violence, fraud, or intimidation used by Clark, or any of his friends, whereby parties were prevented from voting for the candidate of their choice?—Answer. I know the freedmen were told that, in case Giddings was elected, they would all be put back into slavery; and many of them asked my opinion as to whether it was so or not; I told them it was not.

Question. How long have you resided in Robertson County?—Answer. About a year; and in Texas, sixteen years.

his
GEORGE + MCKNIGHT.
mark.

Sworn and subscribed to before me, at Calvert, this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

H. L. HAYNES, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, place of residence, and how long have you resided in Texas?—Answer. H. L. Haynes; forty-five years old; reside in Calvert, Robertson County, Texas, and in Texas twenty-one years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. In Calvert, Robertson County, Texas.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. As far as my personal knowledge goes, it was conducted peaceably, quietly, and fairly; and all persons were counseled by the democrats to keep quiet, and have a peaceable and fair election.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of none.

Question. How did the vote of Robertson County, at the last congressional election, compare with the vote at previous elections held in said county?—Answer. It was a full vote, and think the strength of both parties was out. It was the largest vote we have ever had in the county, either before or since.

H. L. HAYNES.

Sworn and subscribed to before me, at Calvert, this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

EDWARD BUTLER, F. M. C., a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Texas, and your color?—Answer. Edward Butler; sixty-three years old; reside in Calvert, Robertson County, Texas.

Question. What office did you hold in the early part of October, 1871, and by whom appointed?—Answer. I was register of Robertson County, and appointed by Governor E. J. Davis, and acted as such before and during the late congressional election in October, 1871.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and fairly; that if said election was not conducted morally and squarely, it would be impossible to conduct one; and as to the democrats, they acted as fairly as any men could.

Question. Was there any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. There was none that ever came to my knowledge, and none of my special police, (twenty in number,) who were under me, ever reported any to me. On account of a division in the republican party, many of the colored men did not want to vote, and the special police were sent out to tell them that now was the accepted time, and for them to come out and vote, and they did come in pretty generally; there may have been some few who did not come out, but it was the largest vote ever cast in Robertson County, but the white men that had never voted before came out and voted, and I think that is the reason the republicans lost the county.

Question. Did any parties or party, and who, apply to you, after the close of the registration, for certificates of registration for parties who were not entitled to vote?—Answer. There was; C. S. Gellespie and Judge J. M. Turmond both insisted upon my registering parties during

the election. And I did register during the first three days of the election some 165, being nearly equally divided between black and white.

Question. Did any parties offer to vote on forged certificates of registration?—Answer. All I know about that, that C. S. Gellespie came into my office, and was examining the blank certificates of registration, and not long after that a freedman was detected by the judges of election with a certificate of registration purporting to have my name signed to it, which certificate I had never signed; this man had a Clark ticket.

Question. Who was present and assisted in counting out the votes of said election?—Answer. Myself, as registrar; J. R. Scott, Hal. Geiger, ——— Moorehead, the judges; B. F. Wright and Barney Gary, clerks; B. F. Hammond, a citizen, representing D. C. Giddings. ——— Moorehead representing Clark as a citizen, under the proclamation of the governor.

Question. What was the result of the vote, as counted out at said election and returned by the board?—Answer. D. C. Giddings received 1,373; W. T. Clark received 1,144; L. W. Stevenson received 13.

Question. Were or not the returns in accordance with the above account made out and forwarded to the secretary of state and to the governor?—Answer. They were; the returns were made in accordance with the above account, and forwarded to the secretary of state and the governor.

Question. With which political party did you affiliate at the last congressional election, and for whom did you vote at said election?—Answer. With the republican party; and took an active part in the canvass, and voted for Clark. I started for Stevenson, but thought he was too weak, and worked hard for Clark. I was satisfied that Stevenson was the stronger in the republican party by two to one, until the governor came along canvassing for Clark.

his
EDWARD + BUTLER.
mark.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

C. ANSCHRIK, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. C. Anschrik; twenty-nine years old; Calvert, Robertson County, Texas.

Question. What official position have you held in Robertson County since 1869, and by whom appointed?—Answer. Assessor and collector of Robertson County; alderman; a member of the board of appeals; and at present district clerk. To the first office I was appointed by General J. J. Reynolds; to the second by E. J. Davis, governor of Texas; and was elected by the people as district clerk of Robertson County.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, A. D. 1871, during the late congressional election?—Answer. I was in Calvert, Robertson County.

Question. How was said election conducted—peaceably, quietly, fairly, or otherwise?—Answer. It was conducted peaceably, quietly, and fairly.

Question. Do you know of any fraud, violence, or intimidation practiced by me, or any of my political friends, whereby republicans were

prevented from voting for the candidates of their choice?—Answer. I do not.

Question. With what political party did you affiliate, and what your means of knowing of it, had there been fraud, violence, or intimidation used?—Answer. With the Stevenson party; and was about the polls, mixing with the crowd, electioneering for Stevenson; and had there been any fraud or intimidation, I would have been sure to have known it. All the officers of the election and police were supporters of Clark, and the democratic party and the Stevenson party had no power to commit fraud; and, if any intimidation was used, it was upon colored men who wished to vote for Stevenson.

Question. Has any statement of fraud, violence, or intimidation, used at the late congressional election, been filed in your office as district clerk of the county?—Answer. There has not; and all parties, both during and after the close of the election, with the manner in which the election had been conducted.

Question. How did the vote at the last congressional election compare with the votes of previous elections held in this county?—Answer. Twice the number of votes were polled at the last congressional election as had ever been polled at previous elections, and think the full vote of all parties in the county was cast; many republicans expressing themselves that they would prefer Giddings elected before Clark.

C. ANSCHRIK,
Clerk District Court, Robertson County.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

I. B. ELLISON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, residence, and how long have you resided in Texas?—Answer. I. B. Ellison; forty-four years old; reside in Calvert, Robertson County, Texas.

Question. What official positions have you held in this county since 1867?—Answer. I was first connected with board of registration, then appointed county judge, and mayor of Calvert; appointed by General J. J. Reynolds. I am now district attorney of the thirty-first judicial district of Texas; appointed by Governor E. J. Davis.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. I was in Calvert, Robertson County, on those days, and about the polls most of the time the election was going on. I was editing a republican paper, the official organ of the thirty-first judicial district, the office of which was immediately over the room in which the election was held. I was in my office and about the polls most of the time during the entire election.

Question. How was said election conducted—peaceably, quietly, fairly, or otherwise?—Answer. It was conducted peaceably, quietly, and fairly; as much so as any election I ever saw held, so far as I could see.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were deterred from voting for the candidate of their choice?—Answer. I do not.

Question. Were the election orders of Governor Davis observed in

Robertson County, and in the thirty-first judicial district, composed of the counties of Robertson, Leon, and Freestone?—Answer. They were, so far as I know. Had there been any violation, I, as district attorney, would have been likely to have known it.

Question. Do you know of any organization or conspiracy by which electors were controlled in the discharge of the elective franchise?—Answer. I do not.

Question. With which political party have you been affiliated?—Answer. With the republican party, and have done so since the organization of the party in the State. I was a Union man, and opposed to secession; and a Union man all through the war.

Question. Have you not heard prominent persons of both parties speak as to the manner the late congressional election was conducted; and if so, how?—Answer. I did hear them express themselves as to being fully satisfied as to the manner the election had been conducted.

I. B. ELLISON.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

B. F. HAMMOND, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. B. F. Hammond; fifty years old; Robertson County.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, and in what capacity were you acting?—Answer. In Calvert, Robertson County, and acted as a citizen, selected by the board of election managers, to represent the democratic party, under the proclamation issued by the governor, and was present with the board during the whole time, from the commencement of the election until the votes were counted out, and the returns made.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. It was conducted peaceably, quietly, and fairly, so far as the democratic party was concerned. There was an effort made to vote false registration papers, held by parties whose names were not upon the list, some of which were voted before they were discovered by the board. These were all colored men, and voted for Clark.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. To which political party did the officers of the election and the special police (used during the late congressional election) belong, and what use was made of said police during the election?—Answer. The republican party, and were the appointees of E. J. Davis, governor, some of whom were kept about the polls. The balance were sent out to bring in the colored voters. I heard Ned Butler, registrar, give orders to some fifteen or twenty colored police to go out to the Brazos Bottom and bring in all the colored men to vote. I heard them report the next morning that they had rode all night, and had brought in all they could find.

Question. How was the vote at the last congressional election, compared to the vote at previous elections in this county?—Answer. It was

the largest vote ever polled in the county, and think the full strength of both parties was out to the election. I don't believe there were fifty men in the county, entitled to vote, who did not vote.

B. F. HAMMOND.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

M. R. ROLAND, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. M. R. Roland; thirty years old; Calvert, Robertson County.

Question. What official position did you hold in Robertson County in 1871, and by whom appointed?—Answer. I was mayor of the city of Hearne, Robertson County; appointed by Governor E. J. Davis.

Question. With which of the political parties did you affiliate while you were mayor of Hearne, and what threats were made in order to induce you to support W. T. Clark for Congress?—Answer. I affiliated with the republican party during the time I was mayor of Hearne. A short time before the election Judge J. M. Thurmond came to me, and claimed to be a messenger from Governor Davis and W. T. Clark, saying he was authorized to remove or recommend the removal of all officials in the thirty-first judicial district who would not pledge themselves to support Clark; that he had sixty blank commissions signed by Davis, and he intended to appoint twenty special police in each county who would pledge themselves to work for Clark. I refused to make the pledge, and was removed soon thereafter.

Question. Where were you on the days of the late congressional election?—Answer. I was in Calvert one day during the election.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. As far as I saw, it was conducted peaceably, quietly, and fairly.

M. R. ROLAND.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

JOHN B. RECTOR, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John B. Rector; age, thirty-four; reside in Calvert, Robertson County, Texas.

Question. What official position do you hold; when and by whom appointed?—Answer. Judge of the thirty-first judicial district of Texas; appointed by Governor E. J. Davis 1st March, 1871.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. In Calvert all the time.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. So far as I observed, it was conducted peaceably, quietly, and fairly.

Question. Do you know of any fraud, violence, or intimidation, or

bribery used by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of nothing of the kind.

Question. Had there been any in the counties of Robertson, Freestone, and Leon, composing your judicial district, would you not have known of it?—Answer. It would have depended upon how general it would have been. Had it been confined to a few isolated cases I might not have heard of it. Had there been any considerable number involved, it is likely I should have heard of it. No cases of the kind have been brought to my attention.

Question. Do you know of organization or combination in this district whereby voters were deprived of the elective franchise?—Answer. I do not.

Question. With what political party did you affiliate at the late congressional election, and for whom did you vote?—Answer. With the republican party; voted for Clark.

JOHN B. RECTOR.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

J. R. SCOTT, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. J. R. Scott; thirty-nine years old; Bremond, Robertson County.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election, and in what capacity were you acting?—Answer. I was in the town of Calvert on those days, and was acting as one of the judges of the congressional election then being held.

Question. When and by whom where you appointed?—Answer. By Governor Davis, prior to the election, and served until the close of the election and making out of the returns.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Said election was conducted peaceably, quietly, and fairly, so far as I was able to judge.

Question. Do you know of any fraud, violence, intimidation, or bribery used by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. Was any statement made by the registrar or judges of election as to fraud, or violence, or intimidation, at the time the returns of the election were made?—Answer. There was not.

Question. Do you know of any persons attempting to vote, or did vote, upon forged certificates of registration?—Answer. I know of two; they were colored men, and had Clark tickets; the third attempted, but we rejected his vote.

Question. With which political party did you affiliate during the last congressional election?—Answer. The republican party.

Question. Did you assist in counting the votes? And if so, state the result.—Answer. I did assist in counting the votes, and W. T. Clark received 1,144; D. C. Giddings received 1,373; L. W. Stevenson received 13.

Question. Were the returns, in accordance with the above, made out

and signed by the judges and registrar and forwarded to the secretary of state in accordance to the law?—Answer. They were made out in accordance with law, and forwarded.

Question. Have you heard prominent men of both parties express themselves as to how the election was conducted, and how?—Answer. I have heard prominent men of both parties express themselves as satisfied in the way the election had been conducted.

Question. Was the vote at the late congressional election, held in Robertson County, a full vote or not?—Answer. It was the largest vote polled in the county since I have been here, (the last three elections.)

J. R. SCOTT.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

G. S. WHITMORE, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. G. S. Whitmore; forty-five years old; reside at Bremond, Robertson County.

Question. What official position do you hold, and by whom appointed?—Answer. I am captain in the Fifth Regiment State Guards, and appointed by Governor Davis, November 21, 1870.

Question. Was your company on duty during registration and election in Robertson County, October, 1871?—Answer. Myself and four men were on duty part of the time, and I was also in command of the twenty special policemen on duty by the proclamation of the governor.

Question. How was the special police force used during registration and election?—Answer. A portion was kept in Calvert, and a portion were riding about in different parts of the county; these that were riding around were not under my orders, with the exception of three, whom I sent into the bottom to ascertain if any colored men were restrained from coming to the polls and voting, and they came back and reported that all were coming in to vote.

Question. By whom were these twenty special police appointed, and to which political party did they belong?—Answer. What commissions I saw were signed by E. S. Davis, governor, and they belonged to the republican party, and supporters of Clark.

Question. With which political party did you affiliate in the last congressional election, and for whom did you vote?—Answer. The republican party.

G. S. WHITMORE.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

S. A. WALDRON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. S. A. Waldron; thirty-four years old; and reside in Calvert, Robertson County, Texas.

Question. What official position have you held since 1867, and by

whom appointed?—Answer. Supervisor of public instructions of the thirty-first judicial district, and colonel of the Fifth Regiment of State Guards; also member of the board of appeals, and judge of election, and was appointed to all these positions by E. J. Davis, governor.

Question. What threats or inducements were held out or made to you, and by whom, to induce you to support any particular candidate for Congress, and what candidate?—Answer. The post-office of the city of Calvert was offered to me, if I would support William T. Clark, by J. C. De Gress; superintendent of public instruction, State of Texas, was also offered by the same man, (De Gress;) an opportunity to speculate in the building of school-houses.

Question. Were these offers declined by you; if so, were you removed in consequence thereof?—Answer. They were declined by me, but I was not removed, but resigned.

Question. Do you know of any officials being removed for not supporting Clark?—Answer. Yes, sir; T. McHugh, city marshal of Calvert; M. Connolly, postmaster of Hearne; P. W. Hall, postmaster of Calvert, and the whole board of appeals and revision.

Question. Was Clark the choice of the republicans of this district?—Answer. No.

Question. Was the power of the State administration used to elect Clark?—Answer. Yes; the whole power of the State's military force was brought into requisition to aid him in procuring the nomination at Houston. The primary conventions in the counties of Freestone, Grimes, and Galveston were violently interfered with by the State police, who resorted to brute force, that resulted in the spilling of blood, to suppress the will of the republican masses for Stevenson, and to carry them for Clark.

Question. Where were you during the 3d, 4th, 5th, and 6th days of October, 1871, during the congressional election?—Answer. In Leon County, State of Texas.

Question. Was said election conducted in a fair and impartial manner?—Answer. Yes.

Question. Do you know of any bribery, intimidation, threats, &c., of the contestant, D. C. Giddings, to induce or prevent any republican from voting as he saw proper?—Answer. No.

Question. With which political party do you affiliate?—Answer. The republican, and am editing a republican paper at this time.

Question. Do you know of any secret political organization to prevent republicans from voting as they please?—Answer. No.

Question. Have you heard any prominent republicans say that Clark would be counted in whether he received a majority of votes or not?—Answer. I have heard prominent republicans say so, as coming from Governor Davis.

S. A. WALDRON.

A portion of the foregoing evidence was reduced to writing by the witness, S. A. Waldron, in my presence.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

CHARLES HURTEL, a witness in behalf of the contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer.

Charles Hurtel; thirty-one years old; and reside in Robertson County Texas.

Question. Where were you born, and where were you during the late war?—Answer. Born in the city of London, England. Came to this country when very young, and raised in the State of Massachusettts, and during the late war served in the United States Army. Have been a citizen of Texas for about two years.

Question. Where were you during the late congressional election held in October, 1871?—Answer. County of Robertson, and part of the time in the town of Calvert.

Question. With which political party did you at that time affiliate?—Answer. With the republican party; in principle I am a democrat, but for policy was a republican.

Question. What has been your occupation or employment since you have been in Texas?—Answer. Teaching a colored school.

Question. Were you called upon by prominent republicans, supporters of Clark, and told by them what was necessary in order to carry the county for Clark? If so, state their names, what they said, and what threats were made, if any.—Answer. Byron Mahlor, marshal of the town of Calvert, came and asked me to step aside, as he wanted to see me. I stepped aside, and he opened his coat and showed me a roll of papers, which afterward turned out to be blank certificates of registration, and said he wanted me to step in an office and sign Ned Butler's name, (who at the time was registrar,) and fill them up, as he would send parties in there to get them. I told him I would have nothing to do with such rascality. He then left me, and in a few moments was approached by Charles S. Gellespie, postmaster, mayor of the town, and president of the board of school directors of Robertson County; he asked me to step aside, as he wanted to talk with me. He says, "Now, you have been acting with the republican party all along, and lost your leg in the United States service, and these people don't care a damn for you, and, if we lose the election, you will go up well as we. If we want to carry the county, these papers must be signed; that there are a great many negroes that came in too late to register, and Ned Butler refused to register them, and that I must sign Ned's name to the certificates of registration, and fill them up, and give them to such parties as he and Mahlor would send to me, as they could not do it, as they occupied prominent positions, and would be watched, and they must stay on the outside and look up the parties." This I declined to do, when Gellespie told me that he, Gellespie, had had Dr. Cunningham appointed supervisor of education of the thirty-first judicial district, and that De Gress, State superintendent of education, would do anything that he, Gellespie, would ask him to do, and if I did not consent to do this, (sign those papers,) he, Gellespie, would have my school-certificate taken from me, and given to a better man. In a moment of weakness, being a lame soldier, and unable to work, knowing my bread depended upon my maintaining my position as teacher of a freedmen's school, I yielded, and signed the name of Ned Butler to about one hundred certificates of registration, at the same time Clark's tickets were given out to those holding manufactured certificates of registration; all of these parties were colored men, and supporters of Clark.

Question. Have you been indicted for signing Ned Butler's name to these certificates of registration?—Answer. I have been indicted, tried, and acquitted.

Question. Did you, after indictment, and before trial, write to Governor E. J. Davis in relation to the same? And, if so, attach a copy of

your letter to this deposition.—Answer. I did, and I hereto attach a copy of said letter, which is as near a true copy as I can recollect; it is the substance, if not the exact words. I write my name across the back of it, together with the commissioner before whom these depositions are being taken, to identify the same.

CALVERT, TEXAS, *October* 15, 1871.

DEAR SIR: This is the first time that I have had the honor of addressing you, and I hope that you will give me a few minutes' attention, so that I may lay my case before you.

On the 6th instant Colonel Gillespie and Byron Mahlor came to me and told me that if we wanted to carry the county for Clark that we would have to give registration papers to about one hundred republicans, then at the polls, said parties having been refused registration papers by Ned Butler. To do this they wanted me to sign Butler's name to the papers, and then issue them to those parties who would call for them. I told them that I could not lend myself to any such scheme. But they then told me if I did not do so that my school-certificate would be taken from me and given to some better man. Under this compulsion I consented to sign the papers; but, before I did so, Colonel Gillespie told me that there would be no danger, and if I should be found out that he had the word of Governor Davis that I would be pardoned in ten days, if convicted. Now, governor, I have been found out, and the grand jury of this county has found a bill of indictment against me for it. They also found bills against Colonel Gillespie, Judge Thurmond, and other republicans, but on different charges from the one brought against me.

My object in writing to you is to ask your advice about the matter. Please write to me at once and advise me what will be best for me to do.

Colonel Gillespie told me that he would give you a full statement of the affair.

Very respectfully,

C. HURTEL.

His Excellency Governor DAVIS.

I do solemnly swear that the contents of the within statement is true.

C. HURTEL.

CALVERT, TEXAS, *November* 8, 1871.

At the time that I did this I understood that it was the general programme throughout the State in conducting the election.

Indorsed on the back: "Charles Hurtel. D. G. Worrell, United States commissioner, western district of Texas."

Question. Did you receive a reply to your letter to Governor Davis?—Answer. I did, and hereto attach the original letter to this deposition, to identify which I write my name on the back thereof, together with that of the commissioner before whom these depositions are being taken.

GOVERNOR'S OFFICE, *Austin*, *October* 23, 1871.

SIR: Your communication of the 15th has been received, giving an account of the proceedings taken against you and other citizens by the grand jury of your county, and asking advice in the premises.

You should call for a trial, and then, if convicted, you can send me a statement of the facts proved, which I will consider in acting on the question of pardon.

The supervisor of your district can assign you to a school under your certificate.

Respectfully,

EDM'D J. DAVIS, *Governor*.

C. HURTEL, Esq., *Calvert, Texas*.

Indorsed on the back: "Charles Hurtel. D. G. Worrell, United States commissioner, western district of Texas."

Question. State any other fact in relation to your signing those papers that will explain your reasons for doing so.—Answer. Before consenting to sign them Gellespie assured me that he had either talked with Governor Davis or had letters from him; that if any of us should be found out they would get up a petition, and that he (Davis) would pardon us in ten days.

Question. Did you have any conversation with Gellespie after you had been arrested, and before trial? and, if so, state what it was.—Answer.

I did have a conversation with Gellespie and Mahlor both, after Gellespie had returned from Austin. Gellespie said he had had a private conversation with the governor in relation to it; and he made light of it and said if I did go to the penitentiary for two years I would be pardoned out in ten days; that Davis had told him (Gellespie) that those things had been done all over that State. A few days before my trial at the district court of Robertson County Gellespie told me he had just received a letter from Governor Davis in which my case was mentioned, and that it was all right.

CHARLES HURTEL.

Sworn and subscribed to before me this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

R. B. WALLACE, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. R. B. Wallace; age fifty-four, and reside in Bryan, Brazos County, Texas.

Question. What official position do you hold, and how long have you held the same?—Answer. Deputy United States marshal western district of Texas; for about two years.

Question. Do you know the line of policy generally adopted throughout the district by the democratic party in regard to the electioneering with the negroes?—Answer. As far as my knowledge extended in the district I knew of no undue measures being used to induce the negroes to vote the democratic ticket, the democrats relying upon their own strength and determined to submit to what they considered the unlawful orders of the governor. I was not in the district at the election.

Question. Did you hear any prominent republicans express themselves as to the result of the election, and who would get the certificate of election?—Answer. I did. Some three months before the election I was told by a prominent republican that it did not matter whether Clark received the vote or not; that the governor had determined to give Clark the certificate. I was in the city of Austin during the election, on the first or second night; after the close of the election I was sitting at the door of the Raymond House, when "Quick," of the Houston Union, known to me by sight, walked up near to where I was sitting. When asked by a gentleman (then to me unknown) where he was from, he replied, "Just from the governor's mansion." When the gentleman asked him what was the election news, he replied that Giddings was elected. The gentleman then asked what was the governor's programme, when he ("Quick") replied that the governor would fix that, and that Clark would receive the certificate; and that if Giddings should contest that Congress would table it till near the close of the session, and that that would have a great influence to demoralize the democratic party, seeing that their men when elected could not get their seats. I then inquired of Henry Weir, who lives in San Antonio, if he knew to whom Quick was speaking. He replied to me that he was the State senator from Bexar County, Texas; that he was acquainted with him, and gave me his name, which I have now forgotten.

Question. Do you know of any fraud, violence, or intimidation used by contestant or any of his political friends, whereby republicans were

prevented from voting for the candidate of their choice?—Answer. I do not.

R. B. WALLACE.

Sworn and subscribed to before me at Calvert, Robertson County, Texas, this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned this 10th day of February, A. D. 1872, to meet by agreement at Springfield, Limestone County, on the morning of February 12, 1872, at 9 o'clock a. m.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages, hereto attached, was taken and reduced to writing by me, (except S. A. Waldron's, which was written by witness, in my presence,) on the 10th day of February, A. D. 1872, at my office in the city of Calvert, Robertson County, Texas; that the examination was conducted on the part of contestant, D. C. Giddings, by himself; that W. S. Clark, contestee, was not represented.

Given under my hand and official signature, at office in the city of Calvert, Robertson County, this 10th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 13.—*Depositions taken in Limestone and Freestone Counties.*

D. C. GIDDINGS
vs.
W. T. CLARK.

In the matter of contested election from third congressional district of Texas, now pending before the Congress of the United States, wherein D. C. Giddings is contestant and W. T. Clark contestee, it is agreed that contestant shall commence taking testimony at Springfield, Limestone County, on the 12th day of February, 1872, before D. G. Worrell, United States commissioner, and that he may examine all such witnesses as may appear before said commissioner, hereby waiving time, and names of witnesses, and all formalities in regard to taking testimony.

T. G. DAVIDSON,
Attorney for Contestee.
D. C. GIDDINGS,
Contestant.

FEBRUARY 1, 1872.

UNITED STATES OF AMERICA,
Western District of Texas:

To any legally authorized officer of said district, greeting:

You are hereby commanded to summon the persons whose names appear on the back hereof, residents of the county of Limestone, in said district, personally to be and to appear before me at my office in the town of Springfield, county of Limestone, on Monday, February 12, A. D. 1872, at 9 o'clock a. m. of said day, to give evidence and the truth to speak in behalf of the contestant, in the matter of the contest of D. C. Giddings, contestant, *vs.* W. T. Clark, contestee, for the seat of member of Congress for the third congressional district of said State in the Forty-second Congress of the United States, and to remain from day to day until discharged by law. Herein fail not under penalty of the law.

Witness my hand and official signature, at office in the town of Calvert, this 9th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

[Indorsement.]

J. B. Rogers, A. G. Anderson, J. D. Miles, F. C. McMillan, W. H. Ricarson, G. L. Hammeken, G. A. Watts, S. D. Tucker, M. N. Miller, John R. Henry, W. C. Anderson, M. A. Tucker, J. A. Harrington, D. M. Pendergrast, W. J. Mosley, J. H. Welsh, R. A. Clifton, C. H. Newton, H. N. Atkinson, R. W. Turner, T. A. J. Childers.

Came to hand February 8, 1872; executed February 12.

Deputy marshal's fees for serving subpœna	$8 00
Mileage	141 20
	149 20
3 subpœnas	1 50
Mileage on same	20 70
	171 40

TULLY KEMP,
Deputy United States Marshal for the Western District of Texas.

OFFICE OF UNITED STATES COMMISSIONER,
Springfield, Limestone County, Texas, February 12, 1872.

Pursuant to application to notice and agreement, met this day at 9½ o'clock a. m., at the court-house in Springfield, Limestone County, Texas. Present: D. G. Worrell, United States commissioner, western district of Texas; T. Kemp, United States deputy marshal; D. C. Giddings, contestant, and J. W. Dickinson, attorney in behalf of W. T. Clark, contestee.

JAMES B. ROGERS, a witness in behalf of contestant, being duly sworn, deposes as follows:

Question. What is your name, age, and place of residence?—Answer James B. Rogers; thirty-five years old; Fairfield, Freestone County, Texas.

Question. What official position do you hold?—Answer. Sheriff of Freestone County.

Question. Where were you during the registration and election held in October, 1871, for member of Congress?—Answer. At Fairfield, Freestone County.

Question. How was said election conducted; peaceably, quietly, fairly, or otherwise?—Answer. It was conducted quietly, peaceably, and fairly. There was no disturbance neither in registration or during the election. The registration had proceeded for five days under James King, the former register, who conducted the same without the aid of any police, when one W. H. Tracy made his appearance, holding a commission from the governor as register, and relieved James King, and took charge of the registration. Tracy brought with him blank commissions from the governor to appoint special policemen. I told him my understanding of the law was that they were only entitled to twenty for each county. He said he could appoint five hundred if he wanted to, and showed me a large number of blank commissions.

Question. How many special policemen did Tracy commission, and how were they employed during registration and election?—Answer. Thirty-four colored and two whites; they were employed to—a portion of them about the court-house, the balance in riding over the county to bring in freedmen to register and vote. I heard Tracy instruct the police to go out into the country and bring in all the colored men and boys, down to fifteen years of age, to register and vote. Many boys under twenty-one did come in, and many of their parents called on me for advice, and that I advised them not to register where they were under age. Tracy would reply to them, "Recollect the instructions I gave you last night," or language to that effect. I know of nine who did register under twenty-one years. I know of only one of them whose vote was rejected; there may have been more, but not to my knowledge.

Question. Was there any necessity for this police in order to preserve the peace in Freestone County during registration and election?—Answer. There was not.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not. There were some colored men who desired to vote the democratic ticket, but were prevented by the colored police, who took their democratic tickets from them, tore them up, and compelled them to vote the republican ticket.

Question. Have the civil authorities of Freestone County ever been resisted since you have been sheriff of that county?—Answer. They have not. I have been sheriff since the 9th day of May, 1870, and have never been resisted in any manner.

Question. How did the vote in that county at the late congressional election compare with the elections previously held since all the voting was at the county-seat?—Answer. It was a full vote. I am satisfied there was not to exceed twenty-five freedmen in the county who did not vote.

Question. State how the election was conducted.—Answer. On the morning of the election I had a rope about sixty feet long stretched so as to let two whites and two colored alternate in going to the polls, until the colored men had all voted, so that both races had an equal opportunity to approach the polls.

Cross-examined by contestee:

Question. Did you see more than twenty commissions in the hands of olicemen?—Answer. I did. I saw thirty-six.

Question. Did you read or simply look at those commissions?—Answer. I looked at the signatures.

Question. Are you able to swear for what counties those commissions were issued for?—Answer. They were all for Freestone, and all the policemen resided in Freestone County, and I read the name of the county on the commission.

Question. Do you know that those parties that you speak of voting and registering under age is so of your own personal knowledge, or is it from hearsay?—Answer. I know of a number of registering, but do not know whether they voted or not.

Question. With regard to the interference of colored voters who attempted to vote for Giddings, state whether the ticket you spoke of being taken away from the colored man was taken from him by the policeman, or was given up voluntary.—Answer. The ticket was snatched away by the policeman, who drew their pistols on him, the colored man.

Question. Do you mean to say that the policemen drew their pistols out on him?—Answer. One laid his hand on his pistol and said he had a good mind to blow his brains out. Policeman did not draw his pistol, but put his hand on it and threatened him. No other policeman drew his pistol on him.

Question. Do you know of any threats being made to colored men by democrats, previous to the election, that they would be discharged if they did not vote for Colonel Giddings?—Answer. I never did, nor heard of any in the county.

Question. Do you know of any colored men being advised by white men not to go and vote, or it would be better for them not to vote?—Answer. I do not.

Re-examined by contestant:

Question. Do you know of any organization of armed men in Freestone County during the election?—Answer. I do not, except the police.

Question. Has the law forbidding the carrying of arms been enforced in Freestone County?—Answer. It has.

Question. Were the election orders of Governor Davis obeyed in Freestone County?—Answer. They were.

Re-cross-examined by contestee:

Question. Do you know of any white men appearing in town during the registration and election, armed?—Answer. I do not.

J. B. ROGERS,
Sheriff of Freestone County, Texas.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. D. MILES, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. J. D. Miles; thirty-six years old; Freestone County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election; and in what capacity were you acting?—Answer. Fairfield, Freestone County, and acting as one of the clerks of the election.

Question. How was said election conducted; peaceably, quietly, fairly, or otherwise?—Answer. Peaceably, quietly, and fairly.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. Do you know of any organization of armed men, or of armed disturbance, in said county during registration and election?—Answer. I do not, except the police, who were the only armed men in the county.

Question. Has the law forbidding the carrying of arms been obeyed in said county?—Answer. It has, as far as I know.

Question. Was there, or not, free access to the polls, during said election, for both races and for both parties?—Answer. There was. I saw no preference shown to either party.

Question. Do you know of any intimidation practiced toward the registrar or either of the board of election, whereby they were prevented from conducting the election fairly?—Answer. None whatever. I was clerk of the election and present all the time, and, had there been any, I would certainly have known it.

Question. Were you present when the votes were counted out at said congressional election?—Answer. I was.

Question. Please examine the copy of the returns here shown you, and state whether or not it shows the correct result.—Answer. I have examined the copy shown me, and it is a correct copy of the returns as made by the register and judges of said election and sworn to by them before me. I write my name on the back thereof to identify it, together with that of the commissioner before whom these depositions are being taken.

Return of an election held in accordance with the proclamation of the governor, commencing on the 3d day of October, A. D. 1871, and continuing four consecutive days, in Freestone County, State of Texas, for election of member to Congress:

Mr. W. T. Clark received 780 votes; Mr. D. C. Giddings received 1,147 votes.

We, the undersigned, judges of election and registrar, in the county of Freestone, do hereby certify that the above is a correct return of the election for member to Congress for the county of Freestone, held at Fairfield, in said county, on the 3d, 4th, 5th, and 6th days of October, A. D. 1871.

HUGH T. GEORGE,
EMMETT HEADLEE,
his
JOSEPH + VERNAN,
mark.
Judges of Election.
W. H. TRACY,
Registrar.

Sworn to and subscribed before me, a justice of the peace for said county, at Fairfield, Texas, this 7th of October, 1871.

JIM D. MILES,
Justice of the Peace, Precinct No. 1, *Freestone County, Texas.*

Indorsed on the back: "A. G. Anderson, J. D. Miles, D. G. Worrell, United States commissioner."

THE STATE OF TEXAS, *County of Freestone:*

I, A. G. Anderson, clerk of the district court in and for said county and State, duly qualified and commissioned in terms of the law, do hereby certify that the above and foregoing document is a true and correct copy of the original returns of an election held in accordance with the proclamation of the governor, commencing on the 3d day of October, A. D. 1871, and continuing four consecutive days, in Freestone County, State of Texas, for election of a member to Congress, filed with me by the registrar, W. H. Tracy, and the judges of election in and for Freestone County. And I further certify that James D. Miles, whose official signature appears thereto, and the officer before whom they subscribed their names, is and was a justice of the peace in and for

Freestone County, duly qualified and commissioned in terms of the law, and also was the chief clerk of said election.

In testimony whereof I have hereunto set my hand and affixed the impress of the seal of said court, at office in the town of Fairfield, in said county, this the 1st day of December, A. D. 1871.

[SEAL.] A. G. ANDERSON,
Clerk District Court, Freestone County, Texas.

Question. State how the returns were made.—Answer. There were three returns made—or triplicate copy of the one referred to were made out, signed, and sworn to before me, one copy sealed and addressed to the secretary of state, at Austin, one filed with the district clerk, one delivered to W. H. Tracy, registrar, to be by him delivered to the governor in person.

Question. Was any other return made out by the registrar or any of the judges of the election, differing from this, to your knowledge?—Answer. There was not.

Question. Did you hear the registrar and judges of the election express themselves as to the fairness of the election, after the close; and if so, how?—Answer. I heard Mr. Tracy, the registrar, say that if it had not been for him Mr. Giddings would have beat General Clark over 500 votes in the county; express himself as perfectly satisfied with the result and fairness of the election. I heard H. T. George, president of the board of revision and one of the judges of election, say that it was the fairest or most quiet election he had ever seen. Said remark was made at the same time that Tracy made his remark.

(Cross-examination waived by contestee.)

J. D. MILES.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

A. G. ANDERSON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and what official position do you hold?—Answer. A. G. Anderson; thirty-three years old; Fairfield, Freestone County, Texas, and am clerk of the district court of said county.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. In Fairfield, Freestone County, in my office at the court-house, in the adjoining room to which the election was being held.

Question. How was said election conducted; peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and fairly. I have never witnessed an election where there was so little disturbance.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. None whatever.

Question. Please examine the copy of the official returns hereto attached, and state whether it is a correct copy of the one on file in your office or not.—Answer. I have examined the copy and find it a true copy, and I identify the same by writing my name on the back thereof, together with the name of the commissioner before whom these depositions are being taken.

Question. Has any statement of disturbance, violence, or intimida-

tion made by the registrar, judges, or clerks of said election been filed in your office?—Answer. There has not been any papers in relation to said election filed in my office, except the return referred to.

Question. Has the election orders of Governor Davis been observed in Freestone County?—Answer. I think they were; so far as I know they were.

A. G. ANDERSON.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

F. C. McMILLEN, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. F. C. McMillen; forty-nine years old; Freestone County, Texas.

Question. Were you present on the 3d, 4th, 5th, and 6th days of October, 1871, at an election held in Freestone County, for a member of Congress?—Answer. I was present as a citizen selected by the board of election managers, to represent the democratic party under the proclamation of the governor at said election.

Question. How was said election conducted; peaceably, fairly, and quietly, or otherwise?—Answer. Peaceably, quietly, and fairly, as far as I could tell.

Question. Was there any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. None in the world, as I saw of.

Question. Was there any disturbance, armed or otherwise, at or about the polls, or in the county during said election?—Answer. Not within my knowledge was there any bearing arms, except the police on duty by order of the governor.

Question. Was there any threats or intimidation toward the registrar or the judges, whereby they were prevented from performing their duties at said election?—Answer. None whatever, that I know of.

Question. How long have you resided in Texas, and what has been your profession?—Answer. I have resided in Texas about twenty-two years; and my profession has been a farmer; I have also been a local preacher about ten or twelve years.

Question. Were you present when the votes were counted for said county at said elections, and returns made; and did you hear the registrar and judges express themselves as to the fairness or unfairness as to the manner in which said election was conducted?—Answer. I was present, and heard all the managers of said election express themselves as entirely satisfied as to the way said election had been conducted, and also as to the result of said election.

Cross-examination by contestee:

Question. Do you know of any threats made toward colored men, that they would be discharged from employment, or other threats unless they voted the democratic ticket?—Answer. I do not; and the only charges of that character I heard of were those published by Tracy.

Question. Do you know of any intimidation, either directly or indirectly, toward colored men to induce them to vote for any particular party?—Answer. I do not; the whites and colored were formed in

two lines; alternately voted until the colored run out, and then the whites voted in two columns, the same way.

Question. Do you not know that there was a degree of timidity on the part of colored men to attend the election previous to the election?—Answer. I do not; nor do I think there was; I think they voted with perfect freedom.

Question. Do you know of any timidity on their part, previous to their voting, and some time before the election, and before the arrangement had been made for their protection?—Answer. There seemed to be a general fear, both by whites and blacks, that there might be a difficulty at the election previous to the election.

Question. Do you remember of any expression, by any person, white or black, previous to the election, showing such a fear on their part?—Answer. I met an old freedman by the name of Uncle Ben Grover, a day or so before the election; I said, "Uncle Ben, aint you going down to the election?" He replied, "No; I will stay at home; I am afraid there will be a difficulty down there, and I don't want to get into any difficulty." I heard a number of white men express themselves as fearful of a difficulty occurring during election; I also heard them express their determination to keep down any difficulty which might occur. All dreaded and deprecated a difficulty, both white and black—I mean all the citizens in the county.

Question. What were those fears based on?—Answer. I believed them to have been based on the fear of an altercation between the two races.

Question. Do you know that those fears were allayed on the part of the colored people, by the arrangements made to preserve the peace during the election?—Answer. I think they were; I think their fears were allayed by the arrangement made to preserve the peace; and they went forward and voted with perfect freedom; and I know that Ben Grover, the freedman before referred to, came forward and voted, to my certain knowledge.

Re-examined by contestant:

Question. Were not these apprehensions that you spoke of the result of the calling out of the special police, and the use that was to be made of them during the election?—Answer. I think they were more attributed to that than any other cause.

Question. To which political party did the special police belong?—Answer. I think entirely to the radical party; there may have been one or two democrats on the police, but, if so, I do not know it.

Re-cross-examined by contestee:

Question. Do you know the purpose of appointing these policemen?—Answer. I understood them to be appointed for the purpose of preserving the peace, and giving an opportunity for a fair election; at least that was the ostensible purpose.

Question. At the time of these fears being expressed by the people had the police been appointed?—Answer. They had been appointed; at least, there was a police force there, and at the time of apprehension or excitement was the time between the registration and election.

Question. Had you heard any of these conversations in regard to a possible difficulty at or during election, immediately after the issuing of the governor's order, or before the election?—Answer. I have no recollection of hearing any apprehension expressed until registration commenced by Mr. Tracy. Mr. King had been registering, and everything had gone on orderly and quietly under Mr. King.

Question. Now, how could the calling out of special police create apprehension as to any difficulty occurring?—Answer. Mr. King had been registering before Mr. Tracy came. Mr. King was conducting the registration quietly and orderly, and Mr. Tracy, upon superseding him, called out a police force, which caused the people to think or apprehend that he would conduct the matter unfairly.

Question. I think I understood you to say that after the election was over every one agreed that it was a fair and orderly election?—Answer. I did so state. Both democrats and republicans stated as much after election.

Question. I then judge that there were no acts of violence or intimidation on the part of the State police, from the time they were appointed?—Answer. None that I know of, unless their armed presence—if that should have been any.

Question. You have stated that the apprehensions that you thus spoke of were caused by the calling out of the special police; were the colored people afraid of the special police?—Answer. I think not.

Question. Who were afraid of the special police, if not the colored people?—Answer. The whites were afraid it might create excitement and confusion.

Question. Was such excitement, difficulty, and confusion caused by the special police during the time of the election?—Answer. None occurred. Word was sent by the voters of both parties after they had voted, and as they were returning home, for everybody to come in and vote, and guaranteeing that they should have a fair opportunity to vote, and to vote as they pleased, without fear or restraint.

Question. Had not the governor's proclamation guaranteed the same thing?—Answer. Yes; I believe it did, ostensibly.

Question. What do you mean by ostensibly?—Answer. I mean that it claimed to do that.

Question. If a fair election was guaranteed, and a fair election had, why use the word ostensibly?—Answer. Why I make use of that, we did not have full faith in the governor's promises or professions, and that is why I put in the word ostensibly, in relation to what was said about those things.

Question. Was there not a quiet and peaceable election promised in the proclamation of the governor?—Answer. According to my recollection there was; I read it over.

Question. And you say that a quiet and peaceable election was held?—Answer. I do.

Question. I understand you to say that, so far as the election in your county was concerned, there was no breach of faith with you touching the quiet and peace of the election, which the governor had promised in his proclamation?—Answer. I do.

Question. Were you present at the polls from the opening until the final closing of the same?—Answer. I was, during the hours of business.

Question. Do you know that there was a full vote of the county?—Answer. No, I do not.

Question. Do you not judge that the fears and apprehensions throughout the county were pretty much wide-spread previous to election?—Answer. That is my conviction.

Question. I understand you to say that this feeling was shared by both whites and blacks?—Answer. That is my conviction.

Question. Did you hear these questions that we have been speaking of alluded to during the late campaign; and was not the election order discussed during campaign speeches?—Answer. I don't recollect

of hearing the election order alluded to in any of the speeches I heard during the campaign.

Question. Are you prepared to say in the minds of how many of your citizens those apprehensions remained so as to prevent them from coming to vote?—Answer. I am not; my opinion is that the minds of all became satisfied.

Question. Was there a full vote of your county?—Answer. No, there was not; that is, all men in the county didn't vote.

Witness desires to add to his above answer: Although every man in the county did not vote, I think we had as full a vote as is usual on election occasions.

F. C. McMILLAN.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

W. H. RICHARDSON, a witness on behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. H. Richardson; thirty-four years old; Limestone County, Texas.

Question. What official position did you hold, and by whom appointed, in the latter part of September, 1871?—Answer. Captain State guards, and appointed by Governor E. J. Davis.

Question. Where were you on the 30th day of September, 1871, at the time of the killing of D. C. Applewhite?—Answer. I was at my place of business, in the town of Groesbeck, Limestone County, Texas.

Question. By whom was Applewhite killed?—Answer. It was understood that he was killed by the negro police; I did not see it.

Question. Were you called upon by any one, and by whom, to assist in making the arrest of the parties charged with the killing of Applewhite?—Answer. I was standing within a few feet of A. Zadek, jr., mayor of Groesbeck, when he said, "I summon everybody to arm themselves and assist in arresting the murderers."

Question. Did you, in obedience to said call, go to his assistance?—Answer. I did, and repaired to his presence, and remained subject to his orders, until the murderers had escaped, or said to have escaped.

Question. Did you tender your services to any official to assist in making the arrests, and what official?—Answer. I did; soon after the killing I came to Springfield, Limestone County, which is my principal place of business, and notified the sheriff of the difficulty that had occurred in Groesbeck, and advising him to repair there and restore peace, thinking his presence necessary, there being apprehensions among the people generally that the negroes would return in force and burn the town. This police left the town defiantly, refusing to be arrested, and, as they were the armed party and the officers of the law, and had acted boldly and defiantly before, and as the mayor had an armed force under his command in Groesbeck, it was feared there would be a serious difficulty, in which good men would be killed and the town burned. Wishing to preserve the peace and prevent such collision, on the next morning, which was October 1, 1871, in the absence of the sheriff, I tendered the services of my company and myself to the deputy sheriff to restore peace and quiet. After some hesitancy on the part of the deputy sheriff, the registrar, Mr. Bonner, being present, ordered

me to have my company in readiness to march in an hour's time, stating that he so ordered me by his authority as registrar.

Question. Did you share these apprehensions of danger from the police returning with the citizens of Groesbeck? and state your reasons and any facts that come within your knowledge.—Answer. I did share in that apprehension, in common with the citizens of Groesbeck, and my reasons are, I saw the police, after the killing of Applewhite, in the street, armed, openly defying arrest by the constituted authorities of Groesbeck, and from their conduct it was reasonable to suppose they would return when re-enforced.

Question. Were any of these parties arrested; and if so, how?—Answer. Yes; there was two arrested and placed in jail.

Question. Were you or not, from that time until the close of the election, under the orders of W. B. Bonner, registrar of Limestone County?—Answer. I was.

Question. Did you and your company obey his orders?—Answer. They did.

Question. Were there any armed bodies of men during registration and election in Limestone County other than those subject to the orders of the officials?—During registration I know of no armed body of men, or armed organization, in the county other than the State police and special police. During the election there were no armed bodies of men in the county in opposition to the lawful authorities except the State police, who, I was informed by the deputy sheriff, refused to obey his orders, he at the time acting as chief of the special police.

Question. How long did you and your company remain on duty?—Answer. We were ordered out on the 1st day of October, 1871, and remained on duty until the night of the 6th, after the closing of the polls.

Question. Were you about the polls during the election?—Answer. Yes. I was not in immediate vicinity of the polls, but always around.

Question. State how the election was conducted on those days—peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably, quietly, and fairly.

Question. Do you know of any fraud, violence, or intimidation on the part of the contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not; that every facility and every possible means were used by the political friends of contestant to induce them to come in and vote.

Question. Was there not free access to and from the polls for all parties, regardless of race or color or party, to cast their votes for whoever they please?—Answer. There was.

Question. To which political party do these officials that you have refered to belong—the registrar, sheriff, and deputy sheriff?—Answer. They belong to the party generally known as the radical party.

Question. Was it or not the policy of the democratic party of this county to have a full and fair election?

(Question objected to by contestee; objection overruled; contestee excepts to the ruling.)

Answer. It was the policy of the democratic party to have a full and fair election.

Question. State any facts that come within your knowledge for forming your conclusions.

(Question objected to by contestee on the grounds of irrelevancy, and

that no predicate to the question; objection overruled; contestee makes exception to the overruling.)

Answer. Knowing the strength of the two parties, and being fully conversant with the character of the people, and feeling their strength as a party, there was a general anxiety among the people that there should be a full, free, and fair election to redeem themselves from the disgrace heretofore heaped upon them by being represented by persons not of the people.

Question. Do you know of any acts on the part of prominent republicans of this county whereby freedmen were prevented from voting, and state all facts in relation thereto?—Answer. I know nothing, of my own knowledge, but if allowed to state——

(Witness being about to state hearsay evidence, the contestee objects to any testimony being received from the witness regarding any facts not within his own knowledge. Question withdrawn by contestee.)

Question. Do you know of any freedmen who declined to vote at the last congressional election in Limestone County, and do you know their reasons for not doing so?—Answer. There was quite a number who did not vote, and stated they did not want to vote. They were here in town, and had free access to the polls; they stated they were not intimidated or afraid to vote. There seemed to be some power keeping them from voting which we could not get at.

Question. Do you know of any conspiracy, understanding, or agreement intended to defeat the election, at the last congressional election, or cause the vote of this county to be rejected?—Answer. I do not, of my own knowledge.

Question. State any facts indicating what was the policy of the republican party of this county to defeat the election or to cause the vote of the county to be rejected.

The contestee objects on the ground that the policy of neither the republican party or democratic party is in question in this case, and the question is consequently irrelevant; objection overruled; contestee takes exception to the ruling.)

Answer. That the political canvass had developed the fact that the democratic party, with a full and fair vote, would carry the county two to one. The idea prevailed throughout the county that the republican party would take some means to prevent a fair election; and so strong was this belief that a great many belonging to the democratic party expressed themselves that they would not come to the election; that the republican party, knowing their weakness, would get up some sort of distubance in order to defeat the election.

Question. Who was the registrar and judges of the late congressional election in Limestone County, and with which political party did they affiliate?—Answer. W. B. Bonner, registrar; John H. Welch, Sidney Jones, and Alfred Bryan were the judges. They belonged to the party known as the radical party.

Question. Do you know of any violence or intimidation practiced toward the registrar or judges of the election by which they were prevented from the discharge of their duties as managers of said congressional election?—Answer. I know of none?

Question. From your position as commander of the forces under W. B. Bonner, registrar, would you or not have known had there been any?—Answer. I certainly would.

Question. Do you know anything about that celebrated ballot-box known as the "Bonner" ballot-box.

(Question objected to by contestee on the ground that the question

does not disclose what that particular box has to do with the case at issue. Objection overruled; contestee takes exceptions to ruling.)

Answer. I have seen said box.

Question. Give a description of it.

(Question objected to on same ground as previous question; objection overruled; contestee takes exception to ruling.)

Answer. The box I saw was a pine box, about a foot square. It seemed to have been securely nailed, with the exception of one side, which had screws in it.

Cross-examined by contestee.

Question. Were you present in Groesbeck at the time of the commencement of the difficulty you referred to in your testimony?—Answer. I was.

Question. How far were you from the scene of the first shooting of Applewhite, from the saloon or grocery where he was first shot?—Answer. I was, I suppose, some seven hundred or eight hundred feet.

Question. Did you see the shooting, or hear it?—Answer. I did not see it, but heard it.

Question. Did you go down to the scene of shooting?—Answer. I did go down to where the shooting had taken place.

Question. Where did you find Mayor Zaderk at that time?—Answer. I found him at Adams & Leonard's corner, known as the bank corner, and within ten feet of the body of Applewhite.

Question. Was it understood that Applewhite had been killed by the State police?—Answer. It was so understood.

Question. Where were the State police at, at the time you came up?—Answer. They were said to be barricaded in the mayor's office.

Question. Was there much excitement around, in that part of the town, on this occasion?—Answer. There was a great deal.

Question. Were there any threats being made use of by the citizens and policemen?—Answer. The citizens not being in the presence of the police, no direct threats were made to them; whatever expressions may have been used was the outburst of the people on an occasion of that kind.

Question. I did not ask what threats were made to the police, and I now ask again what threats, if any, were made about them—the policemen—in conversation among the citizens, who, you say, were excited on that occasion?—Answer. I state, as I stated before, that I know of no individual or direct threat made about them.

Question. State any general threats, if any, made use of on that occasion?—Answer. If any general threats were made, it was the general outburst of the people.

Question. Now then, tell us everything you heard like a threat held out towards those policemen, or about them, made on the part of the citizens at that time.—Answer. I did not hear any direct threat made, with this exception, if threat it may be called, that they ought to be arrested; and if there were any other I don't know it.

Question. Were there any indirect threats made on that occasion?—Answer. None, without the expression I stated before—that they ought to be arrested—might be considered so.

Question. Was there anything said about killing them?—Answer. There may have been.

Question. Did you hear anything of the kind?—Answer. I did not; my impression was that the people were thoroughly indignant.

Question. Were the citizens armed at this time?—Answer. They were not.

Question. How long after this killing of Applewhite were the citizens of Groesbeck generally in arms?—Answer. Within an hour.

Question. How long after the killing of Applewhite before the State policemen left town?—Answer. I suppose an hour and a half.

Question. Was there such a state of excitement in town as to make it appear dangerous for the lives of these policemen, and were the policemen so in fear of their lives, from all you observed on the occasion?—Answer. The police were very defiant, and were in the street with their arms in their hands when I last saw them, and did not seem to fear anything.

Question. Did not the feeling and excitement you speak of spread throughout the county?—Answer. Yes; pretty generally speaking.

Question. Did not this excitement so spread that the county generally were under arms?—Answer. A great many men were under arms, but the county generally I don't think was.

Question. State the purpose, if you know, that induced them to arm?—Answer. My opinion is that the mayor, having called upon the citizens of Groesbeck to arm themselves and assist in arresting the murderer, caused the excitement to spread throughout the country, and the people looking upon that as sufficient cause for the excitement, and consequently armed themselves.

Question. Do you consider the killing of Applewhite by two State policemen, while endeavoring to arrest him, (Applewhite,) and the fact of the State policemen afterwards resisting arrest themselves, by reason of such killing, justified the general arming of the community which followed?—Answer. Taking the naked fact, I do not, but the immediate following of that by the mayor's proclamation tended to spread the excitement throughout the community; that, followed by the open resistance of the police, and the acts of the same prior to this occurrence, had prepared the minds of the people for some such excitement, the rumor having spread throughout the country that they had gathered together in large numbers at their quarters.

Question. You speak of the mayor's proclamation; explain what you mean by that?—Answer. I refer to the time when the mayor called upon the citizens to arm themselves and assist in making the arrest; at the time I stepped up immediately after the killing.

Question. Was the mayor very much excited at that time?—Answer. He seemed so.)

Question. Did those demonstrations of excitement seem to keep on increasing during the hour and a half you speak of immediately following the killing?—Answer. They did.

Question. Is it within your knowledge that Mayor Zadok left town that evening?—Answer. I do not know.

Question. Was there not an inflammatory state of feeling in the community preceding the killing of Applewhite?—Answer. I believe there was; my reasons for thinking so are these: We were just through with an exciting political canvass, and from the insolent bearing of the police at that time, and more particularly the special police had so outraged the feelings of the people that any overt act on the part of the police was calculated to cause a greater excitement than it would have done at any other time.

Question. Were the police you speak of colored?—Answer. They were.

Question. Was there not considerable prejudice against the police on account of their color?—Answer. No.

Question. Was not the phrase, "damned negro police," the expression commonly used in speaking of them?—Answer. I have heard it used.

Question. Did you not hear them spoken of in that way more often than in any other?—Answer. I cannot say that I have; I have heard it very often used.

Question. Was there not a great deal of bitterness of feeling in the community because colored men were put on the police?—Answer. No. On the contrary, I have heard it often remarked that if a portion of the police were white they had no objection to some of them being colored, or if they were all colored, if they would make some better selections of the colored race.

Question. Then I understand there was no objection to policemen on the ground of color?—Answer. There was none.

Question. Do you know of any member of the board of registrars, judges, or clerks of election being in danger of violence during the registration and election?—Answer. I do not.

Question. Did you tell Mr. Bonner, or any member of the board of election, at any time, that if the polls were not opened he or they would be in danger of violence?—Answer. The question came up between myself, Mr. Bonner, Newton, and Jones, as to the advisability of keeping the full force of the State guards under arms at that time. Mr. Bonner was then acting as registrar, Newton as deputy sheriff, and in charge of police, I believe. Jones was present, who afterwards acted as judge of election; also, Sheriff Young. This was the day previous to the election, and two days after the killing of Applewhite. My opinion was asked on the subject of keeping the guards under arms. I replied that much depended upon what they were going to do in regard to the election. Mr. Bonner then asked, if they would open the poils, if I would guarantee them safety. My reply was that if the polls were opened the next morning according to law, that I would use my influence, meaning with the outside community; but that if my command was kept under arms I would guarantee them protection.

Question. Was there at that time anything said about these parties being in danger of violence of any kind, in case the polls were not opened?—Answer. I think there was.

Question. State all that was said on the subject at that time.—Answer. It was my idea at the time that it was necessary to keep my command under arms, to guarantee the safety of these parties, and in the event of opening the polls it was of course necessary to keep the command under arms. I don't wish it to be understood by my answer that there was any more danger to these parties than there was to any other objectionable parties in the community. I then suggested, as a further guarantee for the peace of the community, that they use their influence with the armed negroes who were said to be congregated within a mile and a half of the town, and that no armed demonstration should be made by the negroes, and they assured me they would.

Question. Were any demonstrations made by armed negroes after this?—Answer. I don't know that there was.

Question. Had there been any demonstrations by any colored men other than the State police you have told us about previous to this time?—Answer. I have a reason to believe that there was.

Question. Did you see any such bodies of armed men?—Answer. I did not see any, but I had every reason to suppose, in my official capacity, that there was.

Question. Your knowledge, then, was based on supposition?—Answer. It was not. It was on positive information.

Question. From whom was this information derived?—Answer. That is my business. As commander of the forces here compelled me to use means to obtain information which I am not allowed to use.

Question. In order to judge of the correctness of your information we would like to know from whom it was derived?—Answer. The same answer implies to this question that did to the previous one, and for the same reasons; and I would also state that I was thoroughly satisfied of the fact.

Question. If these combinations of colored men were supposed to be for an unlawful purpose, and that information was given to you of such combination, why should there be such extraordinary secrecy as to your means of information?—Answer. In reply to that question, I before stated that I was fully convinced that there was such an unlawful assemblage of colored men, and that subsequent events proved my convictions to be correct. On a Sunday previous to this conversation, that at the time the two negro policemen who murdered Applewhite were being put in jail, I being in command, and having guaranteed the safety of the guard who brought them in, I saw proper in that capacity to have scout or vidette on the road below town, or the south road, leading in the direction of the negro quarters. That scout came in and reported to me, backed also by the information of a citizen living on that road, that a large body of armed negroes, supposed to be several hundred, were within a half a mile of the court-house square; and I considered that sufficient evidence to place on that road a lieutenant with twenty or twenty-five men.

Question. How long had your command been under arms?—Answer. Since morning.

Question. You say there were fears of an attack being made on Groesbeck by colored men. Was any such attack made by them?—Answer. No attack was made after the murderers of Applewhite left town, but previous to their leaving a body of policemen had charged into the town as re-enforcements.

W. H. RICHARDSON.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Commission adjourned to meet at 9 o'clock a. m. the 13th, A. D. 1872.

UNITED STATES COMMISSIONER'S OFFICE,
Court-House, Springfield, Limestone County, Texas.

Met, pursuant to adjournment, at 9 o'clock a. m., Tuesday morning, February 13, A. D. 1872. Present: D. G. Morrell, United States commissioner, western district Texas; D. C. Giddings, contestant; J. W. Dickinson and W. B. Bonner, attorneys for contestee.

GEORGE L. HAMMEKEN, a witness in behalf of contestant, being duly sworn, says:

Question. What is you name, age, and place of residence?—Answer. George L. Hammeken; age, sixty; city of New York, but have temporarily resided in Limestone County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of Octo-

ber, 1871, during the late congressional election?—Answer. In Springfield, Limestone County.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. As peaceably, quietly, and fairly as any election I ever saw held in any county.

Question. Was there any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None whatever, to my knowledge.

Question. Did you hear prominent democrats before and during the election express themselves as to the desire for a full, free, and fair election, and that the negroes should vote for whom they pleased?—Answer. Decidedly. Yes, I myself offered to several negroes to accompany them to the polls, and from the same, if they were afraid; in some cases they laughed and said they were not afraid.

Question. Did you, during the election, hear prominent republicans express themselves as to the peace and quiet which prevailed about the polls?—Answer. During the election, if I remember rightly, on the second or third day, Judge J. W. Oliver, district judge of this district, arrived in Springfield, and after looking around the public square, observed to deponent, while standing in front of the court-house, "Everything appears to be very quiet and peaceable here."

Question. Did you hear political addresses in Limestone County during the canvass?—Answer. With the exception of one, none, which was an address in the court-house made by the aforesaid Judge Oliver to an audience composed, as well as I recollect, of about eighty colored persons and some seven or eight whites, in which he told his colored friends that he felt sure we would have 1,000 majority in Limestone County; that not only would the colored police be present, but also that he would arm with sixteen-shooters and Colt's pistols a special police; and further observed emphatically, in these very words, "And nary a democrat amongst them." This appeared to deponent the only thing that looked like intimidation during the canvass and election.

Question. Do you know of any threats of violence toward the registrar or judges of election, whereby they were prevented from discharging their duties?—Answer. I do not.

Question. Did you make a sworn statement before Matthew Hopkins, clerk of the United States district court, in relation to the troubles of Limestone County? And if so, please append a copy of said statement. —Answer. I did; and handed the original to Senator Pettit, and hereunto annex a printed copy of the same:

Testimony of an impartial witness in the disturbances in Limestone County, introduced in the Senate by Senator Pettit, Saturday, October 14, 1871, *and referred to the committee on state affairs.*

Personally appeared before me, Matthew Hopkins, clerk of the district court of the United States for the western district of Texas, at Austin, George L. Hammeken, to me well known, who deposeth and saith that he is a native of the city of New York, of sixty years of age; that he was temporarily residing in the town of Springfield, Limestone County, on Saturday, the 30th of September last.

That about 9 p. m. of that day, while at the residence of and conversing with his attorney, L. J. Farrar, esq., Captain Richardson, of the State guard, and partner of the commercial firm of Griggs & Richardson, entered, and informed them that he had just arrived from Groesbeck, where the citizens were much excited on account of the murder of a Mr. Applewhite, an auctioneer, who was father of a family, and very popular in that community; that some of the negro police had first sought a quarrel, and then basely assassinated him. Captain Richardson also stated that very serious disturbances were apprehended.

As the captain observed that he was not personally acquainted with the new sheriff,

Mr. Young, whom I had several times met at the tavern kept by Doctor Huston, I offered to accompany and introduce him, so that proper legal steps might at once be taken to prevent disorder in Groesbeck.

We found that Mr. Young was not at the tavern, and were directed to the court-house. The deputy sheriff, Mr. Newton, came down stairs, and as Mr. Young had been somewhat indisposed for several days, Mr. Newton determined to go to Groesbeck in his stead at once.

Next morning, Sunday, 1st October, Captain Richardson and his company, headed by the registrar, Mr. Bonner, and the sheriff, Mr. Young, went over to Groesbeck, and returned about mid-day. Shortly after, Mr. Young, with a pistol in his belt, entered the house of Mr. Smith, from whom I rent a room, and asked Mrs. Smith if she could prepare dinner for fifty men, and said to me, "Doctor Huston will prepare dinner for fifty, and I want dinner for fifty more."

Some time after dinner, I observed another body of armed men, and on asking who they were, was told that it was a company from Groesbeck, who had come to assist the sheriff and State guard, if necessary, to apprehend the murderers who were protected by the police, and by a large armed force of negroes.

Not long after, the negro police, leaving the main body of their auxiliaries outside the town, entered Springfield, formed in line in front of the court-house, and surrendered two prisoners to the sheriff, and shortly after the posse of Groesbeck returned quietly and in good order to their homes.

George L. Hammeken further deposeth and saith that he was at Springfield recently, during the four days' election, and never has witnessed a more orderly and quiet election. That on the first day he was told by one of his republican friends that probably the negroes would be intimidated and not come in to vote. That he employs as his coachman a freedman called Felix Davey. That he urged Felix several times during those four days to go and vote, and observed to said Felix, "I do not care for whom you vote, but it is your duty and your privilege so to do;" that he also remarked to Felix, if he was afraid, he himself would accompany him to the polls; that Felix laughed, and said he was not afraid, and that he reminded the deponent that many days previous he had observed he thought he would not vote this time. And deponent further deposeth and saith that he told said freedman, Felix, to state to all of his color that Captain Richardson had said to him, the deponent, that if any people of color wished to vote, he would have them properly escorted to and from the polls; that the State guard had been placed under the orders of the sheriff, both to preserve order at the elections, and to prevent any renewal of the agitation caused by the unhappy occurrence of last Saturday. And deponent further declares that, during the election, he asked several freedmen who were in town moving about freely and unconcernedly, if they had voted, and when they answered him in the negative, he asked them "Why?" They shrugged their shoulders and smiled. And deponent affirms that, although he will not mention names, but that he solemnly swears and declares that two of the persons, who, he has every reason to believe, have been most instrumental in endeavoring to have martial law proclaimed in Limestone County, not long ago, stated to him in substance, if not in these exact words, "that they had a spite against this community, and would have revenge." He also further states that, after the prisoners were safely lodged in jail, he has not observed the slightest tendency to violence or disorder, either in Springfield, Groesbeck, or in any other part of the county; nor during the election did he witness any provocation, or hear of anything like insult or violence to any one; and that his free and unbiased opinion is that many freedmen did not vote, because a letter from Sheriff Young to Senator Ford, and another letter from their representative, David Medlock, to a citizen of Springfield, had been read to them; which letters were justly qualified by them as an unnecessary mixture of politics with removing the county-seat to Groesbeck, against their known wishes on the subject.

GEO. L. HAMMEKEN.

Sworn and subscribed before me.

MATTHEW HOPKINS,
Clerk, etc.

Question. With which political party do you affiliate?—Answer. I beg leave to make the same reply as I made to the same question propounded to me by Senator Flanagan, of the Texas legislature, when I was invited to appear before a committee of the senate. In politics, as in religion, when I had been asked whether I was a Catholic or a Presbyterian, I replied: I endeavor to be a Christian; and that in politics I have never been affiliated with any party, but would always vote for the person I thought best.

Question. From your knowledge of public feeling, and the condition

of things, do you think there was any necessity for martial law in Limestone County?—Answer. None whatever, to promote the ends of justice.

Cross-examined by contestee:

Question. How long have you resided in this county?—Answer. At different periods something like twelve months; during different periods, as my business requires my attention in my native city, New York; in Mexico, where I have an interest to attend to, and in this State. The largest portion of those twelve months have been passed in Texas, and a greater portion of the time, from June, 1871, up to this time, has been spent in this county.

GEO. L. HAMMEKEN.

Sworn and subscribed to before me this 13th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

GEORGE A. WATTS, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. George A. Watts; age, twenty-nine; reside in Groesbeck, Limestone County, Texas.

Question. Were you or not in Groesbeck on the 30th of September last, at the time of the killing of D. C. Applewhite?—Answer. I was.

Question. Who was said to have killed Applewhite?—Answer. One Mitch. Cotton, freeman of color, a special policeman wearing a blue ribbon, the badge of a special policeman; one Ike Jones, freeman of color, and one Clem Jones, freeman of color.

Question. Were attempts made to arrest these parties, and by whom?—Answer. I heard Mayor Zadek say he would go and see them and see if they would be arrested. He went three different times, and they refused to be arrested, and refused to go any more from the fact that they had threatened him.

Question. State whether or not they resisted, their numbers, and their conduct?—Answer. They did resist, and refused to be arrested by democrats, but said they would be arrested by their own color.

Question. State their conduct at the time of leaving town, and before leaving, and any threats made?—Answer. Before leaving, while in the mayor's office, they threatened to burn the town and murder the white people if they did not respect them; at which time one of the parties I knew to be Ike Jones fired his pistol in the street twice, and another one of the party fired his pistol downward into the floor; then Rev. Stegol came to me and told me Merrick Trammel was on the edge of the town with a force, and would arrest those parties, provided he would not be interfered with, and asked me to go with him to see Merrick. I went with him and met Merrick Trammel on Wacco street, with a squad of negroes. Merrick used this language to me, "Lawyer Watts, if you will stop those democrats and keep them away, I will arrest those murderers," for they were policemen, and he had come for that purpose. I did all I could to quiet, and open the street, to give him free access to the murderers. They did stop. He went to the mayor's office, where they were, (Merrick Trammel and his squad.) The murderers of Applewhite came out into the street to him. Merrick remarked, "You have whipped the fight, and what more do you want?" I then understood him to say that "You have whipped the fight, and my gun shall

melt in my hand before any of you shall be arrested," and told them at the time to come along with him. They then left town, passing out the west end of Navasota street. Just as they were leaving town they fired some fifteen or twenty shots, having faced about, and firing in the direction of the town. That was the last I saw of them.

Question. Did the mayor or any of the officials call upon the citizens to assist in arresting them?—Answer. The mayor did. Mayor Zadek, his wife, and babe immediately left town.

Question. Do you know of any citizens being under arms except those under the orders of the mayor and the sheriff?—Answer. No citizens took up arms until ordered to do so by the mayor.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. None whatever.

Question. Was there or not free access to and from the polls for all persons who were desirous of voting?—Answer. There was; and the colored people were urged to come and vote as they saw fit by the democrats.

Question. Did you or not hear freedmen express themselves in relation to voting at said elections?—Answer. On the first day of the election I heard numbers of them express themselves that they would go to the polls and vote. After that they said they were not going to vote; that they had later news.

Question. Did they express themselves as being in fear of violence or injury in case they did go to vote?—Answer. They did not to me.

(Cross-examination waived by contestee.)

GEO. A. WATTS.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

S. D. TUCKER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. S. D. Tucker; age, sixty-two; reside in Limestone County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. On the second day of the election I was at Springfield, where the election for Limestone County was being held; the balance of the time I was at my home, about eight miles from Springfield.

Question. Do you know of any fraud, violence, or intimidation practice by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None that I know of.

Question. Was there or not free access to and from the polls for all parties desiring to vote, regardless of parties?—Answer. As far as I know, there was.

Question. Do you know why the freedmen did not vote at said election?—Answer. On the first day of the election I did not come here, but saw a number of negroes going toward town, and in the evening I met same ones at my store, asked them if they had voted, and they said they had not. I asked them why, and they replied, "They told us not to vote," but did not say who was meant by they. I went out

among the negroes on my place the next morning and urged them to go to the polls and vote for just who they pleased; that I would go with them and get their tickets, and see that they got just such tickets as they wanted. They replied they had been there the first day, and didn't think they would go again, and said, "They told us not to vote," but did not say who was meant by they. I afterward met with a freedman named Berry, an influential negro, whom I once owned, and was foreman on M. N. Tucker's (my son's) plantation. I asked him if he had voted. He said he had not: that he had been to town the day before, and Mr. Bonner, the register, and one of the judges of the election, told him to go home and stay there. He seemed to be mad, and I left him.

Question. Do you know of democrats urging the negroes to go to the polls and vote for whom they pleased?—Answer. All I heard talk of it urged them to go and vote just as they pleased.

Question. Did any freedmen with whom you talked express any fears of violence from democrats in case they did vote?—Answer. I heard no such expressions made use of.

(Cross-examination waived by contestee.)

S. D. TUCKER.

Sworn and subscribed to before me this 13th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

M. N. MILLER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. M. N. Miller; forty-three years; I am a native of Texas; resided in Limestone County twenty-three years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election, and in what capacity?—Answer. I was in Springfield, Limestone County, and was present as a citizen with the board, selected by the board of election under the governor's proclamation.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. It was conducted peaceably, quietly, and fairly, as much so as any election I ever saw.

Question. Was or not the governor's proclamation observed or election orders obeyed?—Answer. They were, as far as I know.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. No.

Question. Do you know whether or not democrats advised the negroes to vote for the candidate of their choice?—Answer. They did.

Question. Do you know whether or not prominent republicans advised any freedmen not to vote at said election? and state any facts within your knowledge, why the freedmen did not vote.—Answer. I do not, to my certain knowledge, but have good reasons to believe they did. I have lived in the county twenty-odd years, and am acquainted with a majority of the freedmen in the county. As I was coming to town on the morning of the first day of the election, I passed some fifteen or twenty freedmen coming toward town. I says to them, "Boys, I have just learned that I have something to do with holding

the election, having just received a note that I was selected to be present; come on and vote just as you please; I intend to see that every man has a chance of voting for whoever he wants to." Soon after passing this crowd I met the freedman Berry, the same one mentioned by Mr. Tucker, and two or three other freedmen, who had been to town; and when they met the crowd of negroes which I had passed, they held a short consultation, and all turned around and went back. On the morning of the second or third day of the election, some prominent democrats held a consultation, and determined to send out to endeavor to induce the freedmen to come in and vote for just whom they pleased, as we wished to have a full vote of the county. I went to a freedman who was guarding the jail, and asked him if he would go out and see prominent negroes, and get them to come in and vote; he said he would do so, provided he could get a horse; I furnished him with a horse; and he went out and was gone all day, and returned and brought no freedmen with him, and gave no reason why they did not come.

Question. Do you know of any intimidation or threats toward the registrar or board of election, to prevent them from discharging their duties?—Answer. I do not, nor heard any.

Question. From your presence with the board, is it not likely you would have known had such occurred?—Answer. Yes.

Question. With a full vote of the county what would be the comparative vote of the county as to whites and blacks?—Answer. My estimate is, there would be some 600 or 700 blacks and 1,200 to 1,500 whites.

(Cross-examination waived by contestee.)

M. N. MILLER.

Sworn and subscribed to before me this 12th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District of Texas.

JOHN R. HENRY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John R. Henry; age, fifty-six years; reside in Limestone County, and have done so for twenty-five years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, A. D. 1871, during the late congressional election?—Answer. I was in Springfield a portion of the day every day during the election, and a portion of the time on my farm, five miles from town.

Question. How was said election conducted—peaceably, quietly, fairly, or otherwise?—Answer. Peaceably, quietly, and fairly. I never saw one more so.

Question. Was there or not free access to and from the polls for all parties desiring to vote?—Answer. I should say there was.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None whatever.

Question. Do you know of any efforts made by contestant's political friends to induce freedmen to come and vote, and how?—Answer. I do. On the morning of the first day of the election I came to town early. The polls were open, and quite a number of freedmen were on the public square, and the impression seemed to prevail that the freedmen were not going to vote at all. Prominent men, supporters of Giddings, were

urging them to vote, and go out in the country and get others to come in; vote just as they please. At night, when I returned home, I went around to see the negroes on my place, and urged them to come in and vote for whoever they pleased. They said they had been told not to come to town; to stay at home. I told them that if they wanted to vote, I would go with them to the polls, and see that they voted for whoever they wanted to. Three of the party said they were not afraid to go, but did not care to go anyhow.

(Cross-examination waived by contestee.)

JOHN R. HENRY.

Sworn and subscribed to before me this 13th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

W. C. ANDERSON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. C. Anderson; seventy-two years old; Limestone County, Texas.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I do not.

Question. Do you know of any efforts made by democrats to induce them to come and vote for whom they pleased?—Answer. I tried to get several freedmen to go and vote that I knew would vote against contestant. One said he had registered in Falls County, and that he never had voted, and did not know if he ever should.

Question. State any facts within your knowledge showing the reason why the freedmen did not vote.—Answer. On the morning of the first day of the election, I saw some fifteen or twenty negroes going toward Springfield, and asked them if they were going to vote, and they replied they were. About 12 o'clock I saw a portion of the same negroes, and asked them if they had voted; they said they had not, as there was no use in voting, as the vote of this county would be thrown out.

Cross-examined by contestee:

Question. Was it after the Groesbeck troubles that you heard this statement made?—Answer. It was.

W. C. ANDERSON.

Sworn and subscribed to before me this 13th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

M. A. TUCKER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and where do you reside?—Answer. M. A. Tucker; forty-three years old; reside in Limestone County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. I was at my residence, about eight miles from this place, up to the last day of the election; about 11 o'clock on that day I arrived in Springfield.

Question. Did you at that time hold any official position; and if so, what?—Answer. Justice of the peace, Precinct No. 2, Limestone County, which office I have held since November, 1869; and have been in an official position in Limestone County, as sheriff, and assessor, and collector, for the last twenty years.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I know of none.

Question. Was it or not the general desire of the white people of this county that the colored people should vote for whom they pleased?—Answer. I know of no one who took any particular interest in it except my father and Captain Perry, who went around and solicited the freedmen to come in and vote for whom they pleased. I furnished my mules and wagons from Tuesday morning to the freedmen to come in.

Question. Did they come in?—Answer. They told me they did—all, with the exception of two; they came to the bridge; they returned early in the day near my store, and called me out, when Berry Baker, the foreman on my place, with some fourteen voters, said they had been to Springfield to vote, and did not find things as they understood to be Governor Davis's orders; and they had found the town guarded by white men belonging to Captain Richardson's company—a few colored policemen around. He said, "I found the bridge guarded, but the way open, and passed through perfectly free and unmolested." While in Springfield, he was informed by a colored man that the election was not going on according to the orders of the governor. He then asked me what was the meaning of all this, and what would you do if you were in my place. I says, "Berry, I do not know; I will write or go in or send in, and find out something about it." This was on Tuesday, the first day of the election, about 2 o'clock. I also stated at the same time that my father and Captain Perry had gone to Springfield, and on their return I might learn something. On Wednesday morning my father passed my store and house, in the direction of the several quarters or houses on my place; on his return, he told me he had been to see Berry and the boys, to get them to go in with him and vote. I asked my father, when he came back and told me that, what was the matter—that I did not understand it. He remarked that Captain Richardson's company had been called out; was superintending the election. He says to me, "I want you to influence and get them all in to vote." I told him that I thought I understood the law in regard to elections, and thought every man had a right to vote if he wanted to, and let it alone if he wanted to. I would use no influence, neither *pro* nor *con* in the matter, and did not feel safe in doing so, seeing there was an excitement up. Berry Baker came down to my store on the second day of the election, after my father had been to his quarters, and said that my father had told him to go in to town and vote, and that he would see that he was not molested, and that he should vote just for whom he pleased. Berry Baker then remarked to me, "I don't understand the way they are managing things, and the understanding is between we colored people that the election won't amount to anything; and I would not vote if you were to go with me—with as much confidence as I have in you." I told him Mr. Killinger is going in to-morrow, and I will write to Squire Jones, John H. Welch, or to Mr. Bonner. I addressed Mr. Bonner a note by Mr. Killinger, asking him to inform me how things was going on in Springfield, and received from Mr. Bonner, by the hand of Mr. Killinger, a note, of which the following is a copy:

SPRINGFIELD, *October* 4, 1871.

DEAR SIR: I decline to communicate with you in regard to the validity of election. Times are too pressing to trust anything to letters or messengers, unless I have implicit confidence in them. I would not advise you to bring any Clark men with you, but we are anxious to see you, and wish you would come over immediately. Stevenson has finally withdrawn; everything is working right for us.

Yours, truly,

W. B. BONNER.

M. A. TUCKER.

On my arrival at Springfield on the last day of the election, about 11 o'clock a. m., I met up with W. A. Sharpe, one of the guards at the bridge, and he told me he wished to see me. I came on up into town, in front of the Huston House, with a deaf and dumb uncle of mine who came in to vote with me; Mr. Sharpe met me there in front of the Huston House, and while in conversation with Mr. Sharpe on private matters, Mr. Eugene Moore, Ben Moore, Raymond Robinson, and one other member of Captain Richardson's company, I suppose, with their six-shooters and double-barreled shot-guns with them—they seemed to be intoxicated—pulled some tickets out of their pockets, one of the Moores did. Says he, "Here is a ticket; go and vote." Says I, "I am not ready to vote yet." Mr. Sharpe remarked, "You boys go off, and let Milt alone; I know him." Says he, "Who are you going to vote for?" I remarked that I thought probably it was a free country, and I would vote for whoever I damned pleased. Moore says, "I know he will do what's right; I have known him for a long time, and I think he will vote right." Me and Mr. Sharpe then retired from the crowd. I then proceeded to the polls, and cast my vote, which was the last vote cast.

Question. Do you know of any advice given to republican voters by republicans not to vote?—Answer. I do not—anything further than I have stated.

Cross-examined by contestee:

Question. At the time the squad of colored men came back with Berry Baker from the polls, did he convey the idea to you that he did not feel free as a voter while around about the polls?—Answer. He said he was invited and the way open to go in and vote, but did not think it was according to the governor's orders; that Captain Richardson's company appeared to have taken the direction of the election in their hands, by the direction of the managers of the election; and that he did not understand it. I had reasons for not taking much interest in the election; the simple reasons are just this, I received a private intimation from a friend of mine, that on account my doing a heavy business in this county, I had better take no interest in the election, but simply go to the polls and vote, and come away as soon as I could, both on account of interfering with my business as a merchant, and on account of danger to my person.

Question. Explain what you mean by danger to your person.—Answer. I was requested to do so by this friend of mine, as I stated, he saying that I had confidence in his word in what he told me; I did not ask him for any explanation; knowing him, I took his advice.

Question. Did you understand from what quarter the danger was to come?—Answer. I did not; knowing him, I took his advice. I have no dread of danger—no time, myself, personally.

Question. What were your politics at that time?—Answer. I was generally regarded in the community as a republican, so I was informed by everybody.

Question. Was you ever insulted on account of your politics?—An-

swer. Never; by no gentleman. I had a difficulty once with a man in Groesbeck, by name Garner, who had been deputy sheriff here. I suppose the cause of the assault was on account of my being on James Huston's bond, who was his successor as treasurer of the county.

Question. Did you ever feel any pressure brought to bear on you in regard to your politics?—Answer. Not previous to or during the election.

Question. Did you understand that you were in any danger during the election?—Answer. I inferred from Captain Perry's remarks that I was.

Question. Did you experience any intimidation during the election?—Answer. I can't say I did. I do a heavy trade among the colored people. I noticed an excitement among the mass of the colored people during the election; couldn't see from what cause; they are very excitable people.

Question. Did there seem to be any sense of intimidation among those people?—Answer. I don't know. Those on my place seemed to think the election was not going on according to Governor Davis's order; that seemed to be their talk.

Question. From all that you have observed of the colored people during the election, did you observe symptoms of fear on their part?—Answer. Richard Johnson, Jeff Johnson, Harrison Mays, and some ten or fifteen others, on the first day of the election, came to my store, and Dick Johnson had a paper sticking under his hat-band; said he had been at Springfield—him and others; he went to Captain Richardson, and got a pass to pass out through the guards. He asked me what I thought about things, the way they were going on; I told him I didn't know, that I did not see nothing wrong, but I would inquire into the matter. They went home, and I saw them no more during the election.

Question. Did those men appear to be in any fear or constraint?—Answer. They said the thing was not going on according to Governor Davis's orders; that the town was full of armed white men—Captain Richardson's company; they didn't know what right they had to take charge of the election and the polls, as they thought Governor Davis had appointed police for that purpose.

Question. Did you see any other symptoms on the part of other colored men of the same character?—Answer. I was at no other place, and saw no other congregation of men.

Question. During the election and while you were in Springfield, did you observe any threatening actions on the part of armed bodies of men?—Answer. Nothing, with the exception of what I mentioned in regard to those men who accosted me about voting, whom I was well acquainted with, and regarded as nothing.

Question. State any other facts in this connection.—Answer. I met Mr. Steele on the street on horseback, and asked him to get down and let's go in and vote, and he replied that he never had voted under double-barreled shot-guns, nor never would.

Question. Was there much excitement in town on that occasion?—Answer. No, sir; everything was quiet.

Question. Had there been much excitement about that time throughout the county?—Answer. Mr. Parker told me there had been some excitement at Groesbeck. I was sick myself, and don't know myself.

Question. Do you consider there was perfect freedom on the part of the colored men during the election?—Answer. They were excited, because the election was not going on according to the governor's orders, as they considered.

Question. I ask you on your oath if any testimony you give here would affect your standing in this community?—Answer. No, sir. As I stated before, I have been regarded as a republican, and believe the community would believe any statement I make.

Question. In your opinion, do the white republicans of your county labor under disadvantages in this community?—Answer. Of course they do in some sections of the county; there are sections of the country that it makes no difference.

Question. Has any pressure been brought to bear on any republicans to induce them to change their views, to your knowledge, previous to or during the election?—Answer. No, sir.

Question. Did the white or colored republicans of this county, both previous to and during the election, enjoy as much unrestrained freedom of action as democrats?—Answer. I could see no difference.

Question. Did you as a republican feel as much freedom of action and absence of constraint as if you had been a democrat?—Answer. I did, and think a little more so; because if I had been a democrat I would have had no opposition.

Re-examined by contestant:

Question. Was this personal danger you speak of, of a private or a political character?—Answer. My impression is that it was both by business and designing men; not by the community.

Question. What was the politics of this man Garner you speak of having a difficulty with?—Answer. When he came here he claimed to be a republican; at the time of the difficulty he was a democrat of the biggest kind; I don't think he is much of anything.

Question. Do you know of any republican kept from voting by any act of contestant or any of his political friends?—Answer. I know nothing more than what I have stated, of the two young colored men who refused to go into town on account of the guard at the bridge; can't say whether the guard were democrats or republicans.

MILTON A. TUCKER.

Sworn and subscribed to before me this 13th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned to meet at 9 o'clock a. m., the 14th of February, A. D. 1872.

UNITED STATES COMMISSIONER'S OFFICE,
Springfield, Limestone County, Texas.

Met pursuant to adjournment, at 9 o'clock a. m., February 14, 1872. Present, D. G. Worrell, United States commissioner, western district Texas; D. C. Giddings, contestant; and J. B. Dickinson, attorney for contestee.

JOHN A. HARRINGTON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John A. Harrington; thirty-one years old; Kossee, Limestone County, Texas.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice at the late

congressional election?—Answer. I do not. On the contrary, myself, with others, known supporters of contestant, urged the colored men to come to the polls and vote for whom they pleased, desiring the full expression of the sentiments of the county.

Question. Was there any undue disturbance or excitement in your portion of the county during registration and election?—Answer. There was no disturbance or excitement beyond that of political views.

Question. Did you hear prominent republicans express themselves as to the result of the election, and as to who would obtain the certificate of election; and, if so, who, and the circumstances?—Answer. I frequently heard expressions of that character from republicans. One which impressed me more forcibly than the others was one from a Mr. Johnson, said to be private secretary of Governor Davis, who had been traveling with the governor and canvassing the district for Clark. At the close of an address, delivered in Groesbeck on the night of the 26th of August, I think, he called for three cheers for Clark, and told his audience to go home and sleep on it; that we have got the cards stocked, and intend to elect Clark.

Question. Do you know of any armed bodies of men in Limestone County during registration and election, other than those under the orders of the officials of said county?—Answer. I do not.

Question. Do you know of any efforts being made to keep colored men from the polls?—Answer. Not of my own knowledge.

JNO. A. HARRINGTON.

Sworn and subscribed to before me this 14th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

D. M. PRENDERGAST, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, place of residence?—Answer. D. M. Prendergast; 55 years old; reside in Springfield, Limestone County, Texas, and have resided in said county for twenty-five years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. In the town of Springfield, Limestone County, the place where the election was held.

Question. How was said election conducted—peaceably, fairly, and quietly, or otherwise?—Answer. So far as I saw or heard, on the part of the democrats it was peaceable and quiet, and an effort made to have a full vote and fair election.

Question. From your acquaintance in the county and your knowledge of the sentiments of the white people, what was their wishes in relation to the vote of the colored people?—Answer. From a very general acquaintance over the county and intercourse with the people, it was, so far as I learned, the general if not the universal wish of the white people that the colored people should all vote, and either vote for Clark or Stevenson. They generally gave as their reason for this wish that it was generally believed that it was a studied design on the part of republicans to get some pretext for setting aside or avoiding the vote of the county, as it was known to be largely democratic. And the white people generally desired that the colored people should vote for the republican candidate, in order that there might be no pretense for setting aside the election.

Question. Were there any armed men in and about Springfield or in

the county of Limestone during the election and registration other than Captain Richardson's company, and the special and State police, and under whose orders were they acting?—Answer. There were none, so far as I saw or heard, except Richardson's company, which was called out by Bonner, the registrar, and under his control and direction, and the special and State police, who, as I understood it, were under the command of Captain Farrow and Captain Newton, officers of the special and State police.

Question. To which political party did these officials belong, and by whom appointed?—Answer. Captains Farrow and Newton, and registrar Bonner, were all understood to be republicans, and were said to be appointed by the State authorities. Captain Richardson was understood to be a democrat, and was commissioned as captain of State Guards by E. J. Davis, governor of Texas.

Question. Were or not the orders of Bonner carried out?—Answer. So far as I know or heard of, they were strictly.

Question. State any facts within your knowledge as to the policy of the leaders of the republican party in relation to the colored men voting.—Answer. During the four days of the election there were a great many colored men about the court-house square, and I conversed with many of them, and particularly with one Andy Williams, formerly of the State police, and urged him to come and vote, and get the colored men to vote. He said they didn't want to vote then. I asked him why, if they were afraid to vote; he said no, they were not afraid to vote, but they say it will do no good to vote, and this is not the time for republicans to vote. When I was going into the polls to vote myself, I saw some eight to twelve colored men standing near the steps of the court-house square, the polls being in the lower room of the court-house. I asked them if they had voted, and they replied they had not. I then asked if they had their tickets, and they replied in the affirmative. I then told them I was going in to vote, and if they wished to vote I would go in with them, there being an armed man placed at the court-house door and one at the steps of the court-house inclosure. I remarked to them that Mr. Bonner, the registrar, had placed them there, to protect them and me in voting, and to see no one interfered with us, and allow us to vote as we pleased. They replied to me that they did not wish to vote then.

Question. Why were the State Guards, under Captain Richardson, called out to preserve the peace during election, instead of the special and State police?—Answer. I understood from the officials that the special and State police were in a state of insubordination, and had refused to perform duty as guards at the election, and refused to obey the orders of their officers, and Bonner, the registrar, thinking that an armed force was necessary to preserve peace at the election, retained Richardson's company of State Guards for that purpose, and the most perfect quiet and good order prevailed during the four days of election. I did not hear an angry word or see an intoxicated man.

Question. Were or not the governor's election orders observed by the people of Limestone County?—Answer. So far as I observed they were, the people living in the country leaving town soon after having voted, and were entirely orderly and quiet while in town.

D. M. PRENDERGAST.

Sworn and subscribed to before me this 14th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

W. J. MOSLEY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. J. Mosley; thirty-six years old; Kossee, Limestone County, Texas.

Question. Do you know of any fraud, violence, or intimidation practiced by me, or any of my political friends, whereby republicans were prevented from voting for the candidate of their choice at the late congressional election?—Answer. I do not.

Question. Was there any undue excitement or disturbance in your portion of the county during registration or election?—Answer. There was none more than ordinary in a political contest.

Question. Did you hear prominent republicans express themselves previous to the election what would be the result of the election, and who would get the certificate of election? and state who they were and what was said.—Answer. I did hear prominent republicans express themselves. One Johnson, said to be private secretary of the governor, and claimed to have been traveling with the governor, while canvassing this district for Clark, stated in the town of Groesbeck, Limestone County, on the night of the 26th of August, 1871, (I think,) in a public speech, at the close, he told his friends to go home and sleep on what he had previously told them; that the cards were stocked; that Clark would be elected, no matter what the democrats said or how many votes. I heard, in the city of Austin, one Cad Harn, a member of the legislature of Texas, while in discussion with General Byrn in regard to the election. Byrn said, "Harn, you will feel bad when Giddings, Hancock, Conner, and Herndon are elected. You know this State is largely democratic." "Yes," says Harn, "I know that, but Giddings will not be elected." "Why," said Byrn; "you are not going to throw out votes, are you?" "I do not pretend to say what we will do," says Harn; "he will not get the certificate. I am behind the screen, and speak from the record. I know what I say; he will not be elected."

W. J. MOSLEY.

Sworn and subscribed to before me this 14th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOHN H. WELCH, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John H. Welch; forty-one years old; reside in Limestone County, Texas.

Question. Were you present at Springfield on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election, and in what capacity?—Answer. I was present on those days as one of the judges of the election.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. It was peaceably, quietly, and fairly.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice at said election?—Answer. I do not.

Question. Was there or not free access to and from the polls for all parties to vote freely for the candidate of their choice?—Answer. There was.

Question. Do you know of any efforts made by the democrats to in-

duce the colored people to come and vote?—Answer. There was a great many of them said they had sent out in the country to tell them to come in and vote; that they would be protected, and could vote for whom they pleased.

Question. Do you know of any efforts made on the part of republicans to prevent them from voting?—Answer. Nothing, except the note which Mr. Bonner addressed to Mr. Tucker, which note I mistrusted had been sent out; and since which time I have seen said note.

Question. Were you present when the vote for this county was counted, and what was that vote?—Answer. I was present. D. C. Giddings received 1,153; W. T. Clark, 28; L. W. Stevenson, 1.

Question. Were the returns made out in accordance with the above returns and forwarded to the secretary of state and governor, in accordance with the law?—Answer. They were made out according to the above, certified to, and put in the hands of the registrar.

Question. What is your estimate of the white and black voters of Limestone County?—Answer. Not over 500 colored, and from 1,200 to 1,300 whites; and I think these numbers would embrace the whole number of legal voters in the county.

Question. Does not the registration list show a larger number of registered voters in Limestone County than are entitled to vote, and in your opinion how much?—Answer. It does, some 500.

Question. What is your estimate of the strength of both parties upon a full vote in this county?—Answer. I think there are about seven white radicals, and about fifteen colored democrats; there are 1,200 to 1,300 white votes and about 500 colored, and the vote would be divided according to color.

JOHN H. WELCH.

Recalled:

Question. Do you know of violence or intimidation practiced by contestant or his political friends, whereby the registrar or any member of the board of election were prevented from discharging their duties freely, and with what political party did you affiliate?—Answer. There was none. I was a member of the board, and had there been any I would have known it. Republican party.

JOHN H. WELCH.

Sworn and subscribed to before me this 14th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned at 12½ o'clock p. m., the 14th day of February, A. D. 1872, to meet at Anderson, Grimes County, Texas, on the morning of the 15th of February, A. D. 1872, at 9 o'clock a. m.

D. G. WORRELL,
United States Commissioner, Western District Texas.

D. C. GIDDINGS
vs.
W. T. CLARK.

It is agreed that contestant may commence taking testimony in the contested-election case on the 26th day of February, 1872, at Kossee, Limestone County, before D. G. Worrell, United States commissioner.

and examine all such witnesses as may appear before the commissioner, hereby waiving time and notice and all formalities in relation to taking testimony.

FEBRUARY 20, 1872.

F. G. DAVIDSON,
Attorney for Contestee.

D. C. GIDDINGS.

UNITED STATES COMMISSIONER'S OFFICE,
Kossee, Limestone County, Texas.

Met, pursuant to adjournment and notice of agreement, this 26th day of February, A. D. 1872, 9 o'clock a. m. Present, D. G. Worrell, United States commissioner, and D. C. Giddings, contestant.

W. J. MOSLEY, a witness in behalf of contestant, being recalled and duly sworn, says:

Question. Do you know H. N. Atkinson, who was one of the clerks at the late congressional election in Limestone County?—Answer. I do.

Question. Do you know of his having been subpœnaed as a witness for contestant in this election case?—Answer. I do.

Question. Do you know of his having avoided giving testimony in Limestone County in this case? State any facts in relation thereto.—Answer. When subpœnaed by the marshal I was present, and he stated that he did not want to go to Springfield to testify. If he did the radicals would immediately find it out, and he would lose his position as a teacher of a free school; that if the marshal would let him off from going to Springfield, he would meet the commissioner on his down-trip, and would go to Anderson, in Grimes County, and there give in his testimony, which was agreed to by the marshal and Atkinson. I was on the train with the commissioner from Groesbeck down to Kossee, and he failed to meet the commissioner at the train, as had been agreed upon. The day following he came to me and told me that it was not a disposition on his part to dodge giving testimony, but if he went forward willingly and did it, that he would lose his place as a teacher of one of the public schools; but he preferred being arrested, and then nobody would have a right to complain if he was forced to do it. On the 24th of February, 1872, he came into town. The deputy United States marshal was standing in my door. He (Atkinson) must have seen him. He left town in a few minutes afterward, and did not show himself any more during the day. He (Atkinson) had been in my house daily for two or three days, and inquiring always when the "marshal would be here."

Question. Has said Atkinson made any statements or admissions of frauds committed during the said congressional election while he was acting as clerk at said election?—Answer. He has.

Question. Did he reduce his statement to writing; and if so, have you seen his written statement; and if so, attach the statement to your answers, and identify the same by writing your name across the back thereof.—Answer. He has made written statements in relation to frauds committed at said election. I have seen them and read them, and the one dated November 18, 1871, hereto attached, to identify which I write my name across the back thereof, which is in the handwriting of the said Atkinson. He came to my house with said statement, requested me to convey it safely to Colonel D. C. Giddings; that he did not want the radicals to know anything about it; if they did, it would cost him

his head as public school teacher; that he wanted no one to know it until he was summoned to Washington, as he expected to have to go there to testify. I sent said document by special courier to Colonel Giddings, and recognized the one upon which my name is written across the back as the statement of said Atkinson as given to me.

W. J. MOSLEY.

Sworn and subscribed to before me this 26th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

KOSSEE, LIMESTONE COUNTY, TEXAS,
November 18, 1871.

SIR: I was one of the clerks of the election, and in the performance of my duty I noted the following irregular proceedings:

1. Jones, Bonner, (judge and registrar,) and Young, (sheriff,) repeatedly told me that they had advised negroes not to come to the election, but to stay away, and to pretend that they were intimidated. These individuals also avowed their intention to represent that intimidation was used, in order to have the election thrown out.

2. Bryant (colored judge) did intimidate freedmen who wished to vote the democratic ticket, threatening them with the vengeance of the State police.

3. The registrar allowed negroes to vote without checking their names off the poll-book, thus giving them an opportunity to vote again.

4. The registrar allowed negroes to vote without having any registration papers, which no white man was allowed to do.

5. Young (sheriff) told me that he had furnished thirty fictitious names to be registered. He also informed me that Bonner had furnished over sixty names, besides putting down many more.

6. Jones kept a list of colored men who voted for Giddings, saying, in a threatening manner, that he would remember them.

7. I can also say that the election was the best conducted and most orderly I ever saw; and that, except the instance above mentioned, there was no intimidation used, and nothing preventing any man's depositing his vote for the candidate of his choice. I conversed with many prominent democrats, and all of them expressed themselves as very anxious for the freedmen to come and vote.

Respectfully, yours,

H. N. ATKINSON,
Clerk of Election, Limestone County.

Col. D. C. GIDDINGS.

Indorsed on the back: "W. J. Mosley, R. W. Turner, T. A. J. Childress."

R. N. TURNER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and residence?—Answer. R. W. Turner; thirty-four years old; reside near Kossee, Limestone County.

Question. Do you know H. N. Atkinson, who was one of the clerks at the late congressional election in Limestone County?—Answer. I know Mr. Horatio Atkinson, who was clerk of the late congressional election in Limestone County.

Question. Examine the letter dated Kossee, November 18, 1871, and signed H. N. Atkinson, and state whether or not you recognize the handwriting in said letter, and state all the facts in relation thereto.—Answer. I recognize this letter as the handwriting of Mr. Atkinson. I heard him say there were two hundred and seventeen fictitious names entered on the registration list by the registrar, W. B. Bonner, in order to defeat the election of Colonel D. C. Giddings. I identify the letter by writing my name across the back thereof. I have read said letter, and the said Atkinson has repeatedly made admission of the same facts, as stated in said letter, to me in person.

Question. Do you know any reasons why said Atkinson refuses to testify in this cause? If you do, state them.—Answer. I do. Said

Atkinson is a teacher of a free school, and has stated to me the Government was owing him a considerable sum for his services, which he would lose if he should testify to the facts he knew in relation to said election, and that he would lose his position as school teacher, which he held at the hands of the radical party; that he was not identified with the country, and did not expect to remain long, and could not afford the sacrifice without remuneration. He said that he and Newton, who was also at that time teaching a free school, were in possession of information of vital importance to the democratic party, and that they were willing to go to Washington City and testify, and were not willing to testify this side, as they would lose their positions and could not afford the sacrifice. He even went so far as to suggest the amount they should be paid by the democratic party, which was $1,000 apiece for going to Washington City; and he further stated that the friends of Clark had offered $1,200 as hush-money.

Question. Do you know to what political party the registrar, judges, and clerks of the late congressional election belonged?—Answer. They belonged to what is known in Texas as the radical party.

R. W. TURNER.

Sworn and subscribed to before me this 26th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

R. A. CLIFTON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. R. A. Clifton; forty-three years old; reside in Limestone County, Texas.

Question. What official position did you hold during the registration and the late congressional election, and by whom appointed?—Answer. Special policeman, and appointed by Governor E. J. Davis, and acted as such during registration and election.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of none; and had there been any, I, as special policeman, should have known it; but, on the contrary, I know it was the desire of the democratic party generally that all persons entitled to vote should come up and vote just as they pleased.

Question. Do you know of any efforts made by prominent republicans to prevent negroes from voting?—Answer. I do. There were efforts made by S. M. Jones, W. B. Bonner, C. H. Newton, Mr. Young, sheriff, and Judge J. W. Oliver. As I went in company of Young, the sheriff, to a body of negroes, who were under arms, Young stated to Merrick Trammell, the leader of the negroes, that he had a *capias* for the murderers of Applewhite, and asked if he could get them. Trammell replied, "No, you can't." Young then asked, "Are you and your men going up to vote." Young says, "Are you afraid to go." Merrick replied, "No, he was not afraid." Young says, "Merrick you must not say so; you must say that you are afraid, and must post your men in the same way. We do not want you to vote, and want you to stay away from the polls and say that you are afraid to go, so that we can have the election in in this county thrown out. We are going to be beaten in this election in this county, and we intend to manage it so that the vote of this county will be thrown out," and he wanted them to conduct themselves in such

a way, and express themselves in such a way, that it would show that the reason for not voting was through intimidation. Bonner and Newton wrote several letters which I saw, and sent them out in the country, instructing the negroes "to arm themselves, and prepare for fight;" that the whites intended to exterminate them, and not to come to town to vote. This was after the excitement of the occasion of the killing of Applewhite had subsided, and when there were no white men under arms except those under the orders of Bonner, the register. The object of these letters was to prevent the colored men from coming and voting, so that the vote of the county might be thrown out. There was quite a number of negroes in town during the election, and they were instructed by Jones and others of that party not to vote, for the same reason that they intended to cry intimidation, and have the vote of the county thrown out. Judge Oliver, while in Groesbeck, advised, I think, on the second day of the election, a large crowd of men both white and black, who were preparing to go to Springfield to vote—said to them, "You had as well stay at home and attend to your business, as it will be time and labor lost, as I intend to see that the vote of this county shall not be recognized." Soon after the killing of Applewhite, I heard the statement made to Oliver, by Dunbar, Young, Bonner, Zadek, in relation to the killing of Applewhite; after which Oliver required all to reduce their statements to writing, which they agreed to do, and in a conversation I heard between Oliver, Dunbar, (the others above named being present,) that they must not lose this opportunity of having martial law declared, and the vote of the county thrown out; that it would not only result to the benefit of their party in the present election, but also in the next presidential election. Some time before the killing of Applewhite, I heard Jones, who was one of the managers of the election, ask a colored policeman if he had brought in all from the neighborhood of Heads Prairie to register. The policeman replied that he had got all colored men that were over twenty-one years old. Jones told him to bring in all the well-grown boys, whether they were twenty-one or not, and see that they registered and voted; that he did not care whether they were twenty-one or not, so as they could vote them. Two days after this conversation, I went to Springfield and reported to Newton, who was in charge of the special police, who informed me that his plan would be, on the first day of the election, to put a strong guard on every road that lead to the court-house; the object of which was to search every man, indiscriminately, for arms; the object of which was to deprive every man of his vote that was found with arms about his person or baggage; supposing he would be able to throw out between 300 and 500 votes from the democratic party in that way; that the republican party did understand it, and would lose no votes.

Question. Do you know of any armed men in Limestone County during election, other than the militia and police, under the orders of the officers of election?—Answer. I do not, and there was none.

Question. Did the men on duty obey the orders of W. B. Bonner, the registrar?—Answer. They did.

Question. Do you know of any act of violence or threats by which the registrar, or any of the officers of the election, were prevented from discharging their duties?—Answer. I do not. I never saw an election conducted more peaceable and quietly in my life. The election orders of Davis were carried out strictly.

Question. Do you know the handwriting of C. H. Newton, who was captain of police in Limestone County during registration and election?—Answer. I have seen his writings.

Question. Please examine the affidavit shown you and say whether or not the signature to the same is genuine or not, and identify the same by writing your name across the back thereof.—Answer. I have examined the aforesaid affidavit, and believe the signature of C. H. Newton to be genuine, and identify the same by writing my name across the back thereof.

STATE OF TEXAS, *Limestone County:*

To all whom it may concern:

I, Captain C. H. Newton, deputy sheriff of Limestone County, depose and say, about 9 o'clock p. m., September 30, Captain Richardson, of Springfield, returning from Groesbeck, his place of business, in company with others, reported to me that a man had been killed at Groesbeck, by some of the colored State police, and requested me to repair to said place in order to quell any disturbance that might arise, as the people were in a state of great excitement. Feeling assured by the demonstrations when he left that the negroes might arise and cause bloodshed, as they had already refused to be arrested, and bid defiance to the authorities, *i. e.*, the negro force refused to deliver up the aforesaid police who killed D. C. Applewhite, the aforesaid party. I arrived in Groesbeck about one hour afterwards, and found Captain Richardson's report to be correct. A great deal of the excitement was caused by A. Zadek, jr., mayor of the city, who had ordered everybody to arm themselves and assist in the arrest of the negro police, which gave all parties, including irresponsible characters, an opportunity to bear arms, and, having access to the drinking-shops, kept the populace stimulated by vague and false reports that negroes were expected to charge and burn the town. Self-protection being the first law of nature, every law-abiding citizen felt it his duty to keep under arms in order to protect life and property. The mayor had at this time retired and failed to do his duty. In the meantime a special detachment of horsemen had been organized to secure the arrest of the police who had killed Applewhite, and fled to their quarters, some four miles from town. I, after considerable difficulty, found the mayor and secured writs for their arrest. I ordered the aforesaid detachment to repair with me. Arriving within one-half mile of the negro quarters, I commanded the detachment to halt and remain where they were, hoping to fulfill my mission by strategy, *i. e.*, in getting access to their cabins without causing any unnecessary noise. The detachment complied promptly with my requirement and obeyed all orders. I reconnoitered through the quarters and found that all the reports that had been circulated prior to my leaving town, by the aforesaid irresponsible characters, were untrue. I then ascertained where two of the parties for whom I had warrants; one, Isham Jones, was about a mile distant, another, and Mitch. Cotton, some two miles from Groesbeck. I ordered Giles Trammel, a colored State policeman, to take my horse and induce the aforesaid Isham Jones to come to his quarters, where I was at the time. About this time Mr. Young, the sheriff, made his appearance in the quarters. He remained there waiting for the return of Giles Trammel, and I returned to Groesbeck for the purpose of obtaining a separate warrant for the arrest of Mitch. Cotton, knowing that it was necessary to have two writs. I arrived in Groesbeck about sunrise, and found some disorder, which was confined to the irresponsible characters first alluded to. Mayor Zadek was still failing to discharge his duties, from the utter want of competency. No writ on this account could be secured, and I had to return to Springfield, my place of business. The arrest of Mitch. Cotton and Isham Jones was made about 3 o'clock p m., on Sunday. I had the warrants and executed the same, (being obtained from S. P. Young about 9 o'clock a. m.) After 5 o'clock p. m., Sunday, October 1, the prisoners, Cotton and Jones, were lodged in jail. In the course of time all armed parties, aside from those who were retained by the authorities to guard the jail, orderly retired from town, after which peace and quietness prevailed. I will further state, by taking advantage of the times, divers of persons were instrumental in keeping up the excitement among the colored people for the purpose of personal aggrandizement and political capital. By order of W. B. Bonner, the registrar of Limestone County, Captain Richardson, commanding company of State guards, a portion of which was on duty at the jail, were kept in obedience to his orders during the election; they being under my immediate command, by virtue of a special police commission from the governor, indorsed by W. B. Bonner, registrar, which placed me in command of all the forces brought into requisition during the registration and election. In justice to Captain Richardson and his men, I will state that they discharged their duties with honor to themselves and to the community at large. I am satisfied that during the election there was an under current existing among many parties to keep the colored voters from the polls, as a pretext of throwing out the vote of the county. There was no intimidation used against the colored people; the white people showing a disposition to have them come to the polls and vote; but, in my opinion, they were kept away by the under current referred to, the above being based upon personal observations coming within my own knowledge.

J. W. Oliver arrived here Wednesday, the 4th instant, and manifested a disposition, regardless of facts stated to him by responsible parties, that martial law should exist. During the whole time no demonstrations have been made to even intimidate peace officers from discharging their duties, appertaining to their various offices, and that the articles in the State Journal, with my name affixed, is a base violation of existing circumstances, with the exceptions of a few scattering paragraphs. I refer to the article bearing date, Springfield, October 3, 1871, to His Excellency Governor E. J. Davis. The following are the names attached: W. B. Bonner, registrar; S. M. Jones, justice of the peace and judge of election; John H. Welch, judge of election; Alford Bryan, judge of election; S. P. Young, sheriff; Captain C. H. Newton, deputy sheriff. Being a part of the evidence to which Governor Davis has made it a base to proclaim martial law in Limestone County.

Captain C. H. NEWTON.

Sworn to and subscribed before me this the 15th day of October, 1871.

M. A. TUCKER,
Justice of the Peace, Limestone County.

I indorse the above.

JOHN H. WELCH,
Judge of Election.

Sworn to and subscribed before me this the 15th day of October, 1871.

M. A. TUCKER,
Justice of the Peace, Limestone County.

Indorsed on the back: "R. A. Clifton."

Question. Were you or not on duty as special policeman during election, and was there or not free access to the polls for all parties regardless of race or color?—Answer. I was on duty in Springfield during the whole time of the election, and there was free access to and from the polls for all parties; there was from fifty to one hundred colored men in town every day and would have voted, so they told me, but from the advice given them by Bonner, Jones, and others of that party not to vote. I am a republican, and they conversed with me freely,

R. A. CLIFTON.

Sworn and subscribed to before me this 26th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

T. A. J. CHILDRESS, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. S. A. J. Childers; fifty years old; reside in Limestone County, Texas.

Question. Do you know C. H. Newton, who was captain of police of Limestone County during registration and election, and do you know his handwriting?—Answer. I am acquainted with the said C. H. Newton, and have seen his writing.

Question. Do you know of his having made any admissions or statements in writing in relation to the conduct of the registration and election in Limestone County at the late congressional election?—Answer. I do. He made a statement in writing at my house, and I attach the same to my answers, and I identify the same by writing my name across the back thereof.

Question. Was such statement made voluntarily?—Answer. It was made voluntarily, and he admitted further that, while he was assisting W. B. Bonner, the registrar, that about two hundred and forty fictitious names were entered upon the registration list to enable them to vote negroes from other counties who might be induced to come here to the election.

Question. Do you know of any of the officers of the election advising

colored men to stay away from the polls?—Answer. I did. I heard C. H. Newton, chief of police, say that after the killing of Applewhite he carried written instructions from Bonner, the registrar, to the negroes in different parts of the county to stay away from the polls and not to vote, and to say they were intimidated. The object of this was, as stated by him, to cry intimidation and throw out the vote of the county.

Question. Do you know H. N. Atkinson, and are you acquainted with his handwriting?—Answer. I know the man, and he acted as one of the clerks at the late congressional election. I am not acquainted with his handwriting.

Question. Do you know of his having made any statement in writing, in relation to the management of said election, that came under his knowledge while acting as clerk of said election?—Answer. I do.

Question. Please examine the paper signed by H. N. Atkinson, and say if it is the statement made by Atkinson.—Answer. I have examined it and find it is the verbatim statement made by Atkinson at my house, on or about the 18th of November, 1871, to identify which I write my name across the back thereof.

KOSSEE, LIMESTONE COUNTY, TEXAS, *November* 20, 1871.

Colonel D. C. GIDDINGS: The following is the statement of Captain C. H. Newton, deputy sheriff of Limestone County, commanding militia of State Guards, and chief of police during registration and election; also officiating as registrar divers times during the time aforesaid:

1. Base frauds exercised during the registration, such as entering fictitious names, for the purpose of giving the negroes an opportunity of voting twice for the same candidate. This was done by the instrumentality of Clark and Oliver.

2. Bonner, registrar, registered freedmen whom he admitted were not more than sixteen years old; debarring any white man from registering during their presence.

3. After excitement in Grosbeck, Oliver said he intended to keep it hot in order to have the election thrown out; for, if a fair election was held, Giddings would have over 500 majority.

4. That Bonner and Young, appointees of J. W. Oliver, did instruct the negroes, and also issued imperative orders to me to instruct them to remain away from the polls, and to pretend that they were intimidated.

5. That Bonner did instruct me, while acting in his place during election, not to check off names of freedmen who voted, thus allowing them to vote again.

6. Being in command as aforesaid, I know that all was quiet and orderly, and that there was nothing to prevent any one from voting the republican ticket.

7. W. T. Clark and J. W. Oliver did corroborate and carry out various frauds during election.

8. That Alf. Bryant, one of the judges of election, declared to me that he had been instrumental in keeping freedmen away from the polls; and through my instrumentality, as a representative of the freedmen, we accomplished our purposes, knowing by that action that we would be supported in the supreme court of the State; that everything would be concurred therein.

Captain C. H. NEWTON.

Divers conversations were held with Clark and Oliver, myself in company, instigating various frauds, which are unnecessary to be put upon paper.

Captain C. H. NEWTON.

Indorsed on the back: "T. A. J. Childress."

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice? Answer. I do not. I attended the election two days, and never saw a more peaceable or quiet election in my life. There was free access to and from the polls for all parties.

T. A. J. CHILDRESS.

Sworn and subscribed to before me this 26th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages hereto attached was taken and reduced to writing by me, on the 12th, 13th, and 14th days of February, A. D. 1872, at office in Springfield, Limestone County; and on the 26th day of February, A. D. 1872, at Kossee, Limestone County, Texas; that the examination was conducted on the part of contestant D. C. Giddings by himself; that at Springfield, Limestone County, W. T. Clark was represented by J. W. Dickson and W. B. Bonner; at Kossee, W. T. Clark was not represented.

Given under my hand and official signature, at office in the town of Kossee, Limestone County, this 26th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 14.—*Depositions taken in Grimes, Walker, and Madison Counties.*

It is agreed that contestant shall commence taking testimony in the matter of contested-election case now pending before the Congress of the United States from third congressional district of Texas, wherein D. C. Giddings is contestant and W. T. Clark contestee, at the town of Anderson, Grimes County, Texas, on the 15th day of February, A. D. 1872, before D. G. Worrell, United States commissioner for western district of Texas, and that he may examine all such witnesses as may appear before such commissioner, hereby waiving the ten days' notice of names of witnesses required by law.

D. C. GIDDINGS,
Contestant.
C. COLDWELL,
Attorney for Contestee.

FEBRUARY 1, 1872.

UNITED STATES COMMISSIONER'S OFFICE,
Anderson, Grimes County, Texas.

Met, pursuant to application and agreement, according to adjournment, at Anderson, Grimes County, Texas, at 11½ o'clock a. m., February 15, A. D. 1872. Present, D. G. Worrell, United States commissioner; D. C. Giddings, contestant; and C. Coldwell, attorney for contestee.

JOSEPH MANGUM, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Joseph Mangum; sixty-eight years old; reside in Grimes County, Texas.

Question.—Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. I was in Anderson, Grimes County, and acted as one of the judges at the election then being held for member of Congress, and previously acted as one of the members of the board of revision and appeals for Grimes County.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. The election was conducted peaceably, quietly, and fairly, with the exception of an occasional interference by Mr. Mills, the registrar.

Question. Do you know of any fraud, violence, or intimidation, practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of none whatever; on the contrary, the friends and supporters of contestant made no effort to control the colored vote, and were perfectly willing they should vote for whom they pleased.

Question. State how the election was conducted, and whether there were two boxes used or not?—Answer. There were two boxes, one for the colored and one for the white. They were in the same room and about fifteen or eighteen feet apart. I was put in charge of the box containing the white votes, and Mr. Mills, the registrar, in charge of the box containing the colored votes. Mr. Mills opened the election, refusing to have any clerks, and the voting commenced about 9 o'clock and continued up until about 10 o'clock, during which time votes were received, and no names kept of the voters or the number of votes cast. In the white box over which I presided there were about sixty ballots in the box, and Mills said about eighty in his box; then the lawyers presented the law to them and then clerks were called for, after which the names of the voters were kept by the clerks.

Question. Do you know of any fraud or violence or intimidation practiced by republicans, whereby the colored vote was controlled?—Answer. I saw Mr. Mills, the registrar, refuse to receive democratic votes from colored men, and some six or eight colored men came to me and told me Mr. Mills had refused to receive their votes, and drove them off. Two colored men voted at the white man's box over which I presided, and Mr. Mills had them arrested, when one of the two saying he voted for Clark, Mr. Mills ordered him to be released. Afterwards, upon my insisting that the other should be released, he was.

Question. To which political party does Mr. Mills, the late registrar, belong?—Answer. He belongs to the republican party, and was an active supporter of W. T. Clark.

Question. Do you know of any bribery or threats made by contestant or any of his political friends?—Answer. I know of no bribery or threats made either by you or any of your political friends. His friends were active, but in an honest and fair way, and wished him honestly elected or not at all.

Question. Were any ballots received at your box from any party whose names were not on the registration list?—Answer. Not one.

Question. Were any votes rejected whose names were on the registration list? and state fully all you know of it.—Answer. From one hundred and fifty to two hundred Germans, who had been registered by Mills, and whose names were on the registration list, offered to vote for D. C. Giddings, and were rejected, because they had registered upon papers of declaration of intention to become citizens, Mills claiming he had orders to do this from the governor, but did not show said order.

Question. Was there any intimidation practiced towards registrar or any member of the board, whereby they were prevented from discharging their duties?—Answer. None whatever, except from Mills. When Mr. Terrell, special deputy sheriff on that occasion, challenged the vote of a colored man who offered to vote upon the certificate of registration of a white man, which had been already voted upon, Mills ordered Mr. Terrell away and ordered the polls closed, and closed the box at which

he presided. I continued to receive at my box, seeing no cause to close the polls, seeing no disturbance except what Mills made himself. He then came to me and ordered me to close the box over which I was presiding. I asked him for what? He says, "I have been insulted." I says, "By whom? let's have him arrested." He replied, "By one of Gibbs's democratic deputies, and the polls must be closed." I asked him how long. He said about ten minutes, and the board consented to close them for that time. Mills then showed me a dispatch which he said he was going to send to the governor, which, as near as I can recollect, is as follows: "I have closed the polls. I have been insulted by one of Gibbs's democratic deputies with a six-shooter by his side. What shall I do?" He left, as I supposed, for about ten minutes, but did not return until the following Sunday night about 10 o'clock, when the votes were counted out.

Question. Were the boxes in your charge and control until they were counted out?—Answer. They were.

Question. Were they sealed at night and opened in the morning in the presence of the judges and the watchmen?—Answer. They were, with the exception of the second morning of the election, when Mr. Mills opened one box, (the colored box,) of which Mr. Mills presided over, before the judges and the watchmen, with the exception of myself, and commenced to receive votes one hour before the time to which we had adjourned to. I refused to open the box known as the white man's box, over which I presided, until the judges and watchmen were present.

Question. Were you present when the vote was counted out?—Answer. I was.

Question. Who assisted in counting the votes, and what was the result of the count?—Answer. Mills, the registrar, Mr. Thayer, Robert Woodward, and myself, Adjutant General Davidson, Mr. Barry, as watchman, Major Stone and T. C. Buffington, as tellers. The result, as ascertained by the count, was, for Clark, 1,698; D. C. Giddings, 1,293; Stevenson, 1; blank, 2.

Question. Were there any packed ballots in either of the boxes; and if so, in which box?—Answer. In the colored box in which Mr. Mills had charge of there were seventy-four, averaging from two to ten in a pack. They were tightly packed, and think that they were near the bottom of the box, and must have gone in while Mills had charge of it, and none at all in the box over which I presided, though there were two claimed to be double tickets by the other members of the board, and were thrown out. I am certain they were not double tickets. Gibbs and a colored man, whom Mills said had voted for Giddings, were thrown out, or two tickets for Giddings were thrown out as having been cast by these men, both of whom were registered citizens of this county, and had their certificates.

Question. Were you and the other judges of the election appointed by Governor Davis, and did the judges select a citizen to be present under the governor's proclamation to represent the democratic party, and whom did you select?—Answer. We were appointed by the governor, and selected Mr. Ben. Goodrich, as a citizen, to be present with the board, to represent the democratic party, under the proclamation of the governor. Mr. Mills, the registrar, the judges, and Mr. Goodrich, met for the purpose of opening the polls, when Mr. R. N. Mills, the registrar, announced that Mr. Goodrich was not the party to represent the democracy. I replied the judges had selected Mr. Goodrich. Mills replied that he was a judge himself, and that Goodrich should not serve theirs. One of the judges said he agreed with Mills. Woodward, the

other judge, said he would go with the majority. Mills asked me why we had picked on Goodrich as democratic watchman. I replied because the democratic party had recommended him. He said the democratic party had no right to recommend a man; and Mills and the other judges then selected old man Noland, who could not see to read, and did not serve. Afterwards, Judge Morrison was appointed.

Question. How long have you resided in Grimes County?—Answer. About thirty-one years.

Question. How did the vote at the late congressional election in Grimes County compare with the vote of previous elections held in Grimes County?—Answer. It is the largest vote that ever was cast in Grimes County. The full strength of both parties was polled. There was probably some fifteen or twenty white men, for different causes, and I know of but one colored man who did not vote; and he would have voted the democratic ticket, but he was met and told that the head man of the election had run off and the election broke up, and he turned back. I have made particular inquiry in relation to this.

Question. Did you ever see a more peaceable or orderly election?—Answer. Never in my life. Everything was peace and quiet, with the exception of Mills leaving, which he did without any cause whatever.

Question. Were the election returns made out and forwarded to the governor and secretary of state in accordance with law; and was there any report of fraud, or intimidation, or violence, in said returns?—Answer. The returns were duly made out and signed by the judges, and one copy sent to the secretary of state, one to the governor, and one filed with the district clerk in accordance with the law, and there was no reports of fraud or violence reported.

(Cross-examination waived by contestee.)

JOSEPH MANGUM.

Sworn and subscribed to before me this 15th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOHN H. WILSON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John H. Wilson; thirty-six years old; reside in Anderson, Grimes County, Texas; resided in Grimes County the last seventeen years.

Question. Were you present on the 3d, 4th, 5th, and 6th days of October, 1871, at an election held for Congressman?—Answer. I was present in Anderson most of the time, and was about the polls, a considerable portion of the time in the vicinity of the polls, and staid up later at nights than usual to see that the peace was preserved.

Question. Were there any breaches of the peace during the election that came to your knowledge, and state what official position you hold?—Answer. There was none that came to my knowledge. I am justice of the peace of precinct No. —, in which the election was held, and the only officer in that precinct before whom a charge of that character could be brought.

Question. Do you know of any fraud, violence, bribery, or intimidation practiced by contestant or any of his friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I know of none. From my intercourse with contestant's friends I know that they did everything they could to keep anything like fraud

or intimidation down, and give the colored republicans an opportunity to vote for whom they pleased.

Question. How did the vote at the last congressional election compare with the vote at previous elections held in Grimes County?—Answer. I think it was the largest vote ever cast in the county.

Question. Do you know of any threats of violence toward the registrar, or a member of the board of election, whereby they were prevented from discharging their duties?—Answer. I know of none; never heard anything indicating such a disposition on the part of anybody.

Question. To which political party did the registrar and board of election and special police belong?—Answer. To the republican party.

Question. State what position you held at the time in the republican party, and your means of knowing had there been any intimidation used.—Answer. I was assistant vice-president of the Loyal League at Anderson, and presume we would have been advised had there been anything like intimidation intended, and none came under my knowledge.

Question. With which political party did you affiliate during the late congressional election and campaign?—Answer. With the republican party, and voted for General W. T. Clark.

Question. What has been the custom in this county in relation to the use of two ballot-boxes since all the voting has been done at one place?—Answer. It has been the custom to use two boxes, both in the same room, which was the case at the last election.

Question. Were you present at the polls at the time Mills, the register, ordered the polls to be closed, and he, Mills, left; and how did Mills leave?—Answer. I was not immediately at the polls at the time, but somebody remarked that the polls had closed, or that Mills had closed the polls. I inquired of a bystander the cause, and no one seemed to know. I then looked in the direction of the polls, thinking that some little fuss might have occurred, but everything seemed to be as quiet as usual. A short time after this I saw Mills riding down the main street, and asked some one where he was going. Nobody seemed to know. The town was crowded with people, all of whom were perfectly peaceable and quiet. His manner of leaving is best exemplified by the attached, from the hand of an unknown poet:

STRAYED OR STOLEN.

Our beautiful, honest, and brave registrar
Has left us, and gone the Lord knows where;
He was a beautiful bird, with feathers so fine,
And a top-knot that shone as the sun couldn't shine.

His amiable face, so modestly shy—
You could tell he was honest by the cut of his eye;
And his dear, sweet mouth, you could see, by the bye,
Was an open sepulcher for chicken-pie.

His pants were as tight as the bark on a tree,
His coat dysinteris in the highest degree;
He carried himself as proud as a stag,
Or lately imported pure scalawag.

When last he was seen, he was passing the jail,
His bright eyes extended, his red cheeks were pale;
And Jehu-like, he was going pell-mell,
You could track him, they say, by his exquisite smell.

We want him so bad, we will give a reward
To sheriff or police to bring him for-ward;
But, one thing we say, and distinctly mean,
If you bring the fool back, his clothes must be clean.

Question. Was there or not any good cause for closing the polls?—Answer. None in the world, that I know of.

(Cross-examination waived by contestee.)

JOHN H. WILSON.

Sworn and subscribed to before me this 15th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

D. C. DICKSON, a citizen, in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Texas?—Answer. D. C. Dickson; fifty-four years old; reside in Grimes County, Texas; and have lived there for twenty-six years.

Question. State what official position you have held since your residence in Texas.—Answer. I have held nearly all the county offices; have been a member of both branches of the legislature, lieutenant governor, and was a member of the constitutional convention in 1866.

Question. Were you present at Anderson, Grimes County, on the 3d, 4th, 5th, and 6th days of October, 1871, during an election being held for Congressman?—Answer. I was.

Question. How was said election conducted; peaceably, quietly, and fairly, or otherwise?—Answer. Peaceably and quietly, but I thought I saw evidences of unfairness in the morning when the polls were opened. I understood they had no clerks, that there was no one looking after the interests of the opposing candidates, in accordance with the governor's proclamation, and no list of the names of voters being kept. When hearing these things, I went to see Dr. Mills, the registrar, who was conducting the election, and remonstrated with him about the violation of the law, in not having clerks, and in violating the governor's order in not having citizens present to represent the opposing candidates, and why Mr. Goodrich was not there to represent the interest of contestant. His reply was, he didn't want Mr. Goodrich or any lawyers about the polls, and they had selected Mr. Noland, from Navasota, to represent the interests of contestant. I replied to him that Mr. Noland was a very clever gentleman, but too old and illiterate to fill the position, and, besides, he was not present. I told him I thought the election was being conducted unfairly, and he was doing injustice. I then left the room. Soon after Mr. Jack Baker was appointed by some one to represent the contestant. Up to this time voting had been going on for about an hour. The vote up to that time was variously estimated from eighty to four hundred. They then got clerks, and commenced to take the names of voters. The voting then progressed in a quiet and orderly manner.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of none nor heard of none, and since the election have been foreman of the grand jury of this county, and as such investigated those questions fully, and am satisfied that there was none.

Question. Please examine the annexed copy of the presentment made

by the grand jury of Grimes County, and state whether the annexed is a true copy of the presentment made by the grand jury of which you were foreman, at the term immediately following the election, October, 1871?—Answer. I have examined the annexed copy of the presentment by the grand jury of which I was foreman, and to identify the same I write my name on the back thereof, together with the name of the officer before whom these depositions are being taken.

Question. State the character as to intelligence and integrity of the men composing that grand jury?—Answer. I think, as a body, it was made up of the best men of our county, both white and colored, being all men of good moral characters. The colored men were composed of the best of their class, both as to intelligence and their morals. There were seven colored men, and one of the judges of the election, and the report referred to was the unanimous report of the entire grand jury.

Question. Was or not the investigation of the election frauds, violence, and intimidation, by that grand jury, thorough, extending throughout every portion of the county?—Answer. It was; we had a large number of witnesses before us from all portions of the county, and it was the rule of the jury to question them all closely in regard to any fraud, or violence, or intimidation, in relation to the late congressional election.

Question. Were you present at the court-house when Mills, the registrar, ordered the polls closed? and state all you know in regard to the matter.—Answer. I was voting at the time when the order was given to close the polls, and one of the election managers was indorsing on my certificate "voted." He replied, "All right, sir," or words to that effect, and looked around, as with an inquiring countenance. There was no tumult nor excitement, as I could see; but on going around the corner of the house, on my way to my store-house, I met with Special Deputy Terrell, who told me that Mills had ordered him under arrest for telling Mills that this freedman was voting on a white man's registration paper which had been voted on before.

Question. Did you see any disturbance or excitement calculated to intimidate the registrar, or any of the members of the board of election, from discharging their duties?—Answer. Nothing that was calculated to alarm the most timid person.

Question. To what political party did the registrar, and judges of the election, and the special police belong, and what use was made of the special police during the registration and election?—Answer. The registrar, and judges of the election, and special police all belonged to the republican party. Some of the police told me they were occupied part of their time during registration and election in bringing in freedmen to register and vote.

Question. How did the vote in the late congressional election compare with the vote at previous elections in the county, and whether it was a full vote for the county?—Answer. It was, I think, a full vote for the county, and the largest ever polled in the county, I think.

Question. What position did W. J. Terrell hold during the election, and by whom was he appointed?—Answer. W. J. Terrell was a special deputy sheriff appointed to serve the four days during the election by Sheriff Gibbs.

Question. What is the character of Terrell as to his being a quiet and orderly citizen?—Answer. He is a quiet, peaceable citizen, and a member of the Baptist church.

Question. Did you before or during the election hear prominent republicans express themselves as to the result of the election and as to who would get the certificate of election?—Answer. I have heard num-

bers of them so express themselves, that Clark would get his certificate no matter how the election went.

(Cross-examination waived.)

D. C. DICKSON.

Sworn and subscribed to before me this 15th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

In the district court, Grimes County, Texas, October term, A. D. 1871.

OCTOBER 24, A. D. 1871.

THE STATE OF TEXAS, *Grimes County:*

This day came into open court the grand jury in a body, and a quorum being present, through their foreman, made the following report, which was ordered to be spread upon the minutes, to wit:

To the Hon. J. R. Burnett, judge of the thirtieth judicial district:

The grand jury for Grimes County, duly elected, impaneled, and sworn, would respectfully present that, in the discharge of their duties, they have had before them a large number of witnesses, both white and colored, from all sections of the county, who all concur in the opinion that the utmost harmony, quiet, and peace prevail in all parts of the county, and that violations of the penal law are not more numerous than would be found to exist in any part of the Union in a territory embracing the same number of people. They have diligently inquired into the conduct of the people prior to and during the late election for a member to Congress, and find that no one was prevented, or that any attempt was made to prevent the free exercise of the right of suffrage by any citizen of the county. Some irregularities and violations of law have been found in parties not able to attend the polls, who sent their certificates of registration and voted by proxy. This resulted, doubtless, in most instances, more from ignorance of existing right than any intention of a criminal character to violate the election laws of the State. Nor are we prepared to say it was possible upon the part of the managers of the election to detect such violations of the law. Voting by registration at one place in a populous community living upon nine hundred square miles of territory, it would be an impossibility for the managers of an election, where the voting was rapid and continuous, to identify persons, or even have the time to make an effort to do so, unless their attention was especially called to some particular case. These violations of law could not occur if the county were divided into convenient voting precincts, and parties were required to vote in their own neighborhoods. While such is the opinion of your grand jury in this particular, they would, in addition, say that there was a gross and certainly willful violation of the law upon the part of the registering officer of the county, Dr. R. N. Mills, in the manner of holding the election, and which he only changed, upon the earnest remonstrance and protest of citizens, in this, that the said registering officer, assuming a leading control of the mode and manner of voting, refused to have any clerks of election appointed and qualified until a large number of votes had been cast and deposited in the ballot-boxes, and refusing, in addition, to allow friends of the contesting candidates to be present (as the executive of the State had proclaimed should be) to see that the election was fair in all particulars; thus, willfully, as it were, closing the door against the detection of fraud upon the clearest and most cherished right of the citizen. It is in proof before your grand jury that, upon the counting of the votes, seventy-four fraudulent votes were found and thrown out, all of which were cast for General William T. Clark. These tickets ranged from double tickets up to ten, which were found in packages securely folded together. These facts forcibly impress your grand jury with the conviction that, to preserve the purity of the ballot-box, a return should be made to the system of precinct voting; and that in all elections by the people, opposing candidates should, as far as possible, be represented by duly qualified, honest, and discreet friends upon the bench of judges and clerks of election. Your grand jury has also inquired diligently into an excitement which is said to have existed in the eastern portion of our county, at Prairie Plains, just prior to the election, and find that it all grew out of the utterances of a freedwoman, or a white man who claimed to repeat her utterances; that it had no basis upon which to rest; and although some excitement was created momentarily thereby, yet no one, either white or colored, was molested or disturbed; that the community was, in fact, then as now, in perfect harmony, and the excitement of the moment one only of astonishment and inquiry, by both white and colored citizens, as to the cause. Nineteen-twentieths of our people of this neighborhood, as well as elsewhere, were at the polls and voted.

Your grand jury has examined the county prison, and find it in a very unsafe condition. Prisoners confined there, after repeated efforts from time to time succeeded in burning through a partition floor of solid oak timber ten or twelve inches thick, which divided the basement or dungeon from the upper room, and once successful in reaching the upper room found no difficulty in making an exit. We are informed that the attention of the members of the county court was called repeatedly to this condition of the prison by the deputy sheriff in charge, Mr. Garrett, but that they entirely neglected any effort even to repair it. If this be so, they have certainly been derelict in one of the most important duties devolving upon them. The prison, in its walls, is massive and strong, and its insecurity now wholly the result of inattention and neglect upon the part of those whose duty it was under the law to see that it was kept in proper condition. Whether the vigilance of the deputy sheriff, Mr. Garrett, was increased by this insecurity of the jail, we have no means of knowing, but feel that it should have been. The first escape of six prisoners, some of them charged with the gravest offenses known to our laws, might have been effected despite the care and watchfulness of the most vigilant officer. The escape of the last, however, a convict felon, by the same opening through which the first had made their exit so recently, and before the prison was repaired, is suggestive of want of vigilance and a proper caution upon the part of the deputy sheriff in charge.

It becomes our duty to advise you that it has come to our knowledge that the county treasurer of our county has, in several instances, purchased jury certificates at a large discount, and in his settlements with the county has charged the county the face value of these certificates. We are advised that it is not an indictable offense for a county treasurer to deal in jury certificates, but it seems to us that so manifest a departure from official duty merits prompt attention, as the financial condition of the county could never be improved while such transactions are permitted to go on.

In conclusion, your grand jury can but congratulate the county upon the present harmonious and contented condition of our people; the few infractions of law for so large a population; the steady respect which everywhere prevails for the law and determination to uphold and abide by it, to express the hope that this favorable condition of affairs may not be changed.

The jury also desire to extend to your honor the tribute of faithful and well-discharged duty, meting out to all, of whatever degree, equal and exact justice, ever holding the scales of the blind goddess equally poised, and to express the hope that the county may continue to receive the benefit of your services in the interest of law, order, and peace. They also desire to express their thanks to A. T. McKinney, esq., State's counsel, for his constant attention to duty and the invaluable and efficient aid rendered them by him in the discharge of their duty.

The sheriff and other officers of the court have rendered us efficient assistance in our investigations. We ask that this general presentment may be spread upon the minutes of court.

D. C. DICKSON, *Foreman.*

THE STATE OF TEXAS, *Grimes County:*

I, J. L. Dickson, clerk of the district court of Grimes County, State of Texas, do hereby certify that the above and foregoing four pages contain a true and correct transcript from the record of the district court of Grimes County of the report of the grand jury made at the October term, A. D. 1871, of said court, as appears upon minutes thereof.

Given under my hand and the seal of the district court of Grimes County on this the 6th day of November, 1871.

[SEAL.]

J. L. DICKSON,
Clerk District Court Grimes County.

Indorsed on the back: "D. C. Dickson, February 15, 1872. D. G. Worrell, United States Commissioner, Western district Texas."

BENJAMIN GOODRICH, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Benjamin Goodrich; thirty-one years old; Anderson, Grimes County, Texas; am a native of Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. In Anderson, Grimes County.

Question. Were you or not selected by the judges of said election to be present at said election as the representative of the democratic party?—Answer. I was, and so notified by all three of the judges.

Question. Did you act as such; and if not, why not?—Answer. I did not; and on the morning of the first day of the election I went to the room where the polls were to be opened, before the voting commenced. I demanded the right to inspect the ballot-boxes, and requested them to be opened that I might see inside of them; evaded in complying with the demand for some time, but finally opened the boxes, and shut them up, locked them, and then told me I was not the watchman chosen for the democratic party. I told him I was. He then asked the judges of the election to walk into another room with him, which they did, and shortly after returned, and told me that they were not going to have any watchman. I told them that under the governor's orders they were bound to have them. Mills replied that I was not the man; that he had the right to choose, and he had taken old man Noland, and asked me to leave the room, which I did.

Question. How was the election opened; how many boxes were used, and were they, or not, clerks?—Answer. The voting commenced without clerks, or friends representing either party outside of the judges of the election, and Dr. Mills, the registrar, who were all republicans, and so continued until about 10 or 11 o'clock, up to which time there was no list of the names of voters kept.

Question. From the time the voting commenced up to the time of the appointing of clerks, how many votes were polled in each box, according to the statement made to you by the registrar and judges of the election?—Answer. According to my best recollection now, the statement made to me by them, about sixty in the white box, and about one hundred and eighty in the colored box.

Question.—Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not; on the contrary, from a very intimate personal association with his most ardent supporters in this county, I know that they were opposed to anything of the kind; and I know of several of his most influential friends advised the freedmen to vote and to vote the Clark or Severson ticket, so there would be no plea or pretext for intimidation.

Question. To which political party did the registrar, judges of election, and special police belong?—Answer. All to the republican party, of the Clark wing.

Question. How did the vote at the late congressional election compare with the votes held at previous elections held in Grimes County since the emancipation act?—Answer. I think it is the largest vote that has been cast since the war, in the county, and think it was a full vote for both parties.

Question. What are the comparative numbers of freedmen in Grimes County at last election as to what it was in 1868, and your information for knowing the same?—Answer. My information is that there is a less number of freedmen in Grimes County at the last congressional election than there was to the previous congressional election. My estimate is at least five hundred. My information is from conversations held with gentlemen from all parts of the county on that subject.

Question. Did you know of any disturbance or excitement during the election and registration whereby parties were deterred from registering and voting?—Answer. I do not.

Question. Were you present when Mills, the registrar, ordered the polls closed? and if so, state all that transpired.—Answer. I was. I was standing within about 15 or 20 feet of the window at which Mills was stationed when I heard him, Mills, order Terrell to get down off the box

and to get away from there. Terrell replied he would get down off the box, but he had a right to stand in the street; that he was a special deputy appointed by Gibbs, the sheriff, to observe the peace; he did get down.

Question. Was there anything in the conduct of Terrell or any one else to prevent Mills from discharging his duties?—Answer. There was not. A few minutes after Terrell got down, Mills closed the polls and left town without any cause, so far as I could see; everything was perfectly quiet around the election-room.

Question. How long did the polls remain closed?—Answer. About an hour and a half; during which time fifty men, one at a time, approached the polls, presented their tickets, together with their registration papers, and demanded the right to vote; the judges, after examining the law, opened the polls and received their votes; and from that time on, to the close of the election on the last day, the election proceeded quietly and without any disturbance; throughout the whole election there was no disturbance, and there was not a drunken man in town.

(Cross-examination waived by contestee.)

BEN. GOODRICH.

Sworn and subscribed to before me this 15th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned, to meet at 9 o'clock a. m., the 16th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES COMMISSIONER'S OFFICE,
Anderson, Grimes County, Texas.

Met at 9 o'clock a. m., the 16th of February, A. D. 1872, pursuant to adjournment. Present: D. G. Worrell, United States commissioner, western district; D. C. Giddings, contestant, and C. Coldwell, esq., attorney for contestee.

G. MORRISON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Grimes County?—Answer. G. Morrison; sixty-three years old; Grimes County, Texas, and have resided in said county thirty-eight years.

Question. Where were you on the 3d, 4th, 5th and 6th days of October, 1871, during the late congressional election?—Answer. In Anderson, Grimes County. I was present with the board as a witness under the proclamation of the governor.

Question. State all that came within your observation as to the manner in which the election was conducted, and the conduct of the people at said election.—Answer. The election was held in the court-house. There was two boxes used; one for the white voters, and one for the black voters. The one for the reception of the black votes was presided over by Dr. Mills, the registrar, and the one for the reception of the white votes by Joseph Mangum. The control of the election seemed to be altogether under Dr. Mills, the registrar. The judges seemed to have

had but little to do with the election. On two occasions, when black men handed in their tickets, Dr. Mills discovered they were voting for Giddings. Mills seemed to get angry, and asked the voters why they voted such ticket, and if they had not been influenced to do so by the whites? In both cases they replied that they did so voluntarily, and because they preferred to do so. I told Mills that I thought he ought not to interfere; that most of the colored men were voting for Clark, and no one interfered or questioned them, and if one wished to vote for Giddings I thought he had a right to vote for whom he pleased. Mills replied that I had nothing to do with that; it was none of my business, or words to that effect. On closing the polls on Tuesday evening, the first day of the election, the boxes were sealed by the registrar, and it was announced that election should commence at 8 o'clock on Wednesday morning, and that the boxes should not be opened until I came in, and opened in my presence. I reached the election-room a few minutes before 8, and found Mills and part of the election judges present. The box containing the ballots of the colored voters had been opened. The other box had not been opened. I asked Mills why the box had been opened before the other judges and myself were present. He made some short answer, which I took as an acknowledgment that he done it a short time after the other judges came in, and the other box was opened, and the election commenced. A short time after the polls were opened Major Harn, a republican, and supporter of W. T. Clark, came into the election-room, took off his coat and hung it up behind Bob Woodward, one of the judges of the election. Immediately after this Mills, the registrar, and Bob Woodward, one of the judges, went outside of the door, had a conversation, and returned. I saw Bob Woodward reach his hand around behind him stealthily, and take out of the pocket of Harn's coat a bunch of tickets, and slipped them under the ballot-box. I demanded to see the tickets placed under the box by Woodward. I saw that they were all Clark tickets. There was some fifteen or twenty of them. I became indignant at the action of Woodward and Mills, for I thought they intended to slip the tickets into the ballot-box, and I then left the room. I in a few minutes returned, and the election proceeded quietly and peaceably during the balance of the day, Mills, the registrar, receiving the tickets of the colored men instead of one of the judges. On the 5th day of October, 1871, the election was progressing quietly and peaceable, and I suppose not more than fifty white men in town, and only three being in sight of the position I occupied, being watchman at the colored poll. A colored man attempted to vote on the registration paper of a white man, which was objected to by Terrell, who was a special deputy, appointed by Sheriff Gibbs, who told Mills this man was voting on the registration papers of another man, and under a wrong name. Mills, the registrar, placed the ballot in the box without heeding the information, and asked Terrell why he interfered; that it was none of his business. Terrell replied: I am a special deputy sheriff, appointed by Sheriff Gibbs to assist in keeping order about the polls, and thought he had a right to inform him of the wrongful acts of the voter. Mills demanded his authority. Terrell said his orders were verbal, and that Gibbs, the sheriff, would satisfy him on the point when he came. Mills, the registrar, then ordered Terrell away, and he went away quietly, using no manner of threats against the registrar or any other person. Terrell spoke to Mills in a manly, firm tone, but entirely respectful, orderly, and peaceful. The registrar then ordered the polls closed. No one participated with Mr. Terrell in his objection to the illegal voter spoken of, by look,

word, or gesture, and there were not exceeding three white men in sight. Mills promised to open the polls in ten minutes. Before leaving he told me he was going to Navasota, and would be back in two hours. The polls remained closed between one and two hours after Mills left, when the judges, upon the examination of the law, reopened the polls, and the election continued peaceably and quietly until the close on the fourth day. Throughout the whole election I never saw a more quiet, peaceable, and orderly election in my life. There was no disturbance in the town whatever.

Question. What was the vote of Grimes County at the late congressional election, compared with the votes polled at previous elections since all the voting has been at one place?—Answer. It was the largest vote ever polled in the county; and my estimate is that it was nearly double any previous vote polled in the county; and am satisfied that the full strength of both parties was out to the election.

Question. Do you know of any republican being prevented from registering and voting by any act of the contestant or any of his political friends?—Answer. I do not.

Question. To what political party did the registrar, the judges of the election, and special police belong?—Answer. To the republican party, and were supporters of Clark.

(Cross-examination waived by contestee.)

GWYN MORRISON.

Sworn and subscribed to before me this 16th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

R. S. THOMAS, a witness in behalf of the contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Texas?—Answer. R. S. Thomas; fifty-four years old; Anderson, Grimes County, and have resided in Texas twenty-four years.

Question. Where were you during the late congressional election?—Answer. I was living in Anderson, and frequently around about the polls.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from registering and voting for the candidates of their choice?—Answer. I do not.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise? At first they commenced the election without any clerks or keeping a list of voters, which caused some excited talk. Mr. Mills said they were trying to break up the election, but Dr. Dickson and Captain Hutchinson talked with him and he consented to have clerks. The election went on very quietly then, until a freedman attempted to vote on another man's registration papers. Mr. Terrell, a special deputy sheriff, told Mr. Mills that the man was voting on a paper that had been lost in the store, and Mr. Mills ordered the police to arrest Mr. Terrell. The police did not do it. One of them walked off toward me and the other shook his head. Then Mr. Mills came out of the office, got on one of the police horses, and left. The last I saw of him he was going down street. A short time after Mills left, the judge, after consultation as to the law, reopened the polls, and the election from that time progressed quietly and orderly until the close of the polls.

Question. Was there any intimidation or violence practiced toward Mills which caused him to leave or close the polls?—Answer. None that I saw or heard.

Question. Do you know of any persons voting under age, and for whom they voted?—Answer. I know of one colored boy, whom I raised, named Harris Matthews.

Question. Do you know what use was made of the special police during registration and election?—Answer. All I know is what the police told me, that they were going from place to place to bring all the freedmen in to vote, and said they were instructed to do so by Mr. Mills, the registrar.

Question. What was the vote in the late congressional election in Grimes County compared to elections held in said county since the war?—Answer. It was a much larger vote. I think the full strength of the colored vote was polled, but do not think the full vote of the whites was.

Question. From your knowledge of this county do you think the colored population is as large as it was in 1869?—Answer. I don't think it is. A great many have left and gone to other counties, and labor was much more scarce last year than it had been heretofore.

Question. Is the white population of this county greater or less than it was in 1869?—Answer. It is greater. During the late campaign we had committees in each precinct to canvass the county and ascertain the strength, and there were 2,100 or 2,200 of whites of the proper age to vote, and of this some 1,200 or 1,300 voted the democratic ticket, and about 21 or 22 voted the republican ticket. The colored men voted almost entirely the republican ticket. I know of but one who voted the democratic ticket, but they say there were eight.

Cross-examined by contestee:

Question. You say there were 2,100 or 2,200 of the proper age to vote, do you know how many registered?—Answer. I don't know how many of them registered, but there were some 1,200 or 1,300 voted.

Question. What was the duty of this committee you speak of?—Answer. Its object was to ascertain the strength of the white vote, and to get them to come forward to register and vote, as they had heretofore refused to come and register and vote. It seemed to be the opinion of a good many of the citizens that the whites could out-vote the blacks if they could get all to come forward and register and vote; therefore that canvass.

Question. Was not these lists reported by the sub-committee that you speak of reported to a central committee?—Answer. That was the understanding.

Q. Did not the canvass to which you refer to proceed from the hypothesis that all the whites were democrats and all the colored men republicans?—Answer. It did, because we knew all the white republicans.

R. S. THOMAS.

Sworn and subscribed to before me this 16th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned at 2 o'clock p. m. to meet at Austin, Travis County, Texas, on the 21st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western Dsitrict Texas.

A. T. McKINNEY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. A. T. McKinney; thirty-three years old; reside in Huntsville, Walker County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. Huntsville, Walker County, on all those days.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Said election was conducted fairly, and the most orderly election I have ever seen in the State.

Question. Do you know of any fraud, violence, or intimidation practiced on the part of contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I do not.

Question. What official position do you hold, and by whom appointed?—Answer. I am district attorney of the thirtieth judicial district of Texas, composed of the counties of Grimes, Walker, Madison, and San Jacinto, the first three within the third congressional district, and was appointed to that office in March, 1871, by Governor E. J. Davis.

Question. Has any cases of fraud, violence, or intimidation at the late congressional election come to your knowledge in your official capacity?—Answer. None, with the exception of some ten or fifteen colored persons who have been indicted by the grand jury for voting under age.

Question. Please examine the attached certified copy of the election returns of Walker County, and see if the same is correct or not, and identify the same by writing your name across the back thereof.—Answer. I have examined the attached certified copy of returns, and find them correct, and, to identify the same, I have written my name across the back thereof, together with that of the commissioner before whom these depositions are being taken.

Return of an election held in accordance with the proclamation of the governor, commencing on the 3d day of October, A. D. 1871, and continuing four consecutive days, in Walker County, State of Texas, for election of United States Congress.

Mr. W. T. Clark received 848 votes; Mr. D. C. Giddings received 720 votes; Mr. L. W. Stevenson received 18 votes.

We, the undersigned, judges of election and registrar in the county of Walker, do hereby certify that the above is a correct return of the election for United States Congress held at Huntsville, in said county, on the 3d, 4th, 5th, and 6th of October, 1871.

JOSEPH W. TALBOT,
R. M. BANKHEAD,
W. SULLIVEN,
Judges of Election.
E. T. JOSEY,
Registrar.

Sworn to and subscribed before me, district clerk for said county, at Huntsville, Texas, this 7th of October, 1871.

W. B. ROME,
Clerk District Court, Walker County, Texas.

Certificate to tally of votes cast.

We hereby certify that the above tally is correct, with this result:

D. C. Giddings	720
W. T. Clark	848
L. W. Stevenson	18
Total	1,586

JOSEPH W. TALBOT,
R. M. BANKHEAD,
W. SULLIVEN,
Judges of Election.

GEO. H. STACY,
S. Y. SMITH,
Clerks of Election.

E. T. JOSEY,
Registrar.

Sworn to and signatures acknowledged before me this October 7, 1871.

W. B. ROME,
Clerk District Court, Walker County, Texas.

THE STATE OF TEXAS, *County of Walker:*

I, W. B. Rome, clerk of the district court for the county and State aforesaid, do hereby certify that the above and foregoing is a true and correct copy of return of election held in accordance with the proclamation of the governor, commencing on October 3, 1871, at Huntsville, the county-site of Walker County, and continuing for four consecutive days, for election of United States Congressman, as returned by judges of election and registrar for Walker County, now on file in my office; also a true copy of the result of tally of votes cast at said election, in said county, as appears from the original tally-book on file in my office.

Given under my hand and seal, at office in Huntsville, Texas, this November 16, A. D. 1871.

[SEAL.]

W. B. ROME,
Clerk District Court, Walker County, Texas.

Indorsed on the back: "A. T. McKinney, D. G. Worrell, U. S. commissioner, western district Texas."

Question. Were or not the ballots of Walker County at the late congressional election numbered?—Answer. All the tickets that I saw voted were numbered to correspond with the name of the voter on the poll-list.

Question. Why was this done?—Answer. It had been the practice and was required under the old election laws in former years, and I think it was done in this case in ignorance of the new law.

(Cross-examination waived by contestee.)

A. T. McKINNEY.

Sworn and subscribed to before me this 15th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. N. MAXCY, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in Texas?—Answer. J. N. Maxcy; fifty-one years old; Walker County, Texas; have resided in Texas twenty-three years.

Question. What official position have you held in Texas?—Answer. I was district judge for six years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election?—Answer. Huntsville, Walker County, Texas.

Question. How was said election conducted—peaceably, quietly, fairly, or otherwise?—Answer. It was a very quiet, peaceable, and orderly election, as much so as any I ever saw; fairly, with the exception of some illegal votes, ex-convicts about the penitentiary, who voted for Clark. These were colored men, and were variously estimated from fifteen to twenty-five.

Question. Do you know of any fraud, violence, or intimidation or bribery practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. There was no shadow of intimidation, fraud, or violence, and no person attempted to influence the colored vote for contestant whatever.

Question. Were or not the ballots numbered at said election?—Answer. They were, in the numbers corresponding with the voters named on the poll-list.

Question. Why was this done?—Answer. The old election laws required the ballots to be numbered, as a means of purging the polls of illegal votes. The new law forbids this and makes it a misdemeanor to number the ballots, and I suppose the judges were ignorant of this, and the numbering of the tickets was done by the judges of the election, and were all the political friends of W. T. Clark.

(Cross-examination waived by contestee.)

J. W. MAXCY.

Sworn and subscribed to before me this 15th day of February, A. D. 1872:

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages hereto attached was taken and reduced to writing by me on the 15th and 16th days of February, A. D. 1872, at office in the town of Anderson, Grimes County, Texas; that the examination was conducted on the part of contestant, D. C. Giddings, by himself; that on the part of W. T. Clark, by Judge C. Coldwell.

Given under my hand and official signature, at office in Anderson, Grimes County, this 16th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

To any legal officer of said district, greeting:

You are hereby commanded to summon the parties whose names appear on the back hereof, to be and appear before me at office in the town of Anderson, Grimes County, to give evidence in behalf of contestant, wherein D. C. Giddings is contestant and W. T. Clark contestee, for seat as member of Congress of the Forty-second Congress of the United States, from the third congressional district of Texas, and to re-

main from day to day until discharged by law. Herein fail not, under penalty of the law.

Witness my hand and official signature, at office in Brenham, this 7th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

[Indorsement.]

Joseph Mangum, John H. Wilson, D. C. Dickson, Benjamin Goodrich, G. Morrison, R. S. Thomas, I. M. Bennett, A. T. McKinney, I. W. Maxcy.

Came to hand 7th day of February, 1872. Executed February 8, 1872.

Deputy marshal fees:

Serving nine subpœnas, 50 each	$4 50
Mileage on same	29 70
	34 20

TULLY KEMP,
Deputy United States Marshal for the Western District of Texas.

No. 15.—*Depositions taken in Travis and Hill Counties.*

D. C. GIDDINGS
vs.
W. T. CLARK.

In the matter of contested election from third congressional district of Texas, now pending before the Congress of the United States, wherein D. C. Giddings is contestant and W. T. Clark contestee. It is agreed that contestant shall commence taking testimony at Austin, Travis County, on the 21st day of February, 1872, before D. G. Worrell, United States commissioner, and may examine all such witnesses as may appear before said commissioner, hereby waiving notice, time, and all formalities in relation to taking testimony.

February 1, 1872.

S. G. DAVIDSON,
Attorney for Contestee.
D. C. GIDDINGS,
Contestant.

UNITED STATES OF AMERICA,
Western District of Texas:

To any legal officer of said district, greeting:

You are hereby commanded to summon G. S. Chambers and George R. Hart, who live in Hill County, Texas, and C. S. West and William M. Walton, who reside in Austin, Travis County, Texas, to be and appear before me, (a United States commissioner, western district of Texas,) at office in the city of Austin, Travis County, on the 21st day of February, A. D. 1872, to give evidence in behalf of contestant, wherein D.

C. Giddings is contestant and W. T. Clark contestee, for seat as member of Congress to the Forty-second Congress of the United States from the third congressional district of Texas, and to remain from day to day until duly discharged by law. Herein fail not, under the penalty of the law.

Witness my hand and official signature, at office in the city of Brenham, this 20th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

[Indorsement.]

Came to hand February 20, 1872. Executed same day.

Deputy marshal's fees: two subpœnas in Hill County	$1 00
Mileage on same	26 40
Two subpœnas in Travis County	1 00
Mileage on same	12 00
	40 40

TULLY KEMP,
Deputy United States Marshal, Western District Texas.

UNITED STATES COMMISSIONER'S OFFICE,
Austin, Texas.

Met, pursuant to adjournment and notice of agreement, February 21, A. D. 1870, 10 o'clock a. m. Present, D. G. Worrell, United States commissioner, D. C. Giddings, contestant.

GEORGE S. CHAMBERS, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. George S. Chambers. Twenty-four years old. Reside in Hillsborough, Hill County, Texas.

Question. Were you in Hillsborough on the 3d, 4th, 5th, and 6th days of October, 1871, during the congressional election held there?—Answer. I was in Hillsborough, Hill County, and acted as clerk at the congressional election held on those days.

Question. Who was the registrar and who were the judges at said election?—Answer. William Hooper, registrar; S. C. Dyer, Charles Arndt, and —— Cochran were the judges.

Question. State any facts in your knowledge going to show that the ballot-box in Hill County was tampered with at that election, and state the particulars concerning it.—Answer. On the first day of the election, (the 3d of October, 1871,) after the close of the election on the first day, and the box had been sealed, the ballot-box was set back underneath a small table in the sheriff's office, where the election was held, and two special policemen placed in charge, named respectively J. B. Wallace and J. M. Breech; after which I came out, and was told by a person that Mr. W. L. Booth wished to see me, and I went over to his office. (Booth is a republican and a supporter of W. T. Clark.) He asked me if "I could put in these tickets for Clark," handing me three or four bundles of tickets, containing not less than one hundred tickets in each bundle. I told him I did not know as I could do it; that I might get myself in trouble. He said there was no danger of that; that if I got myself in

trouble he would get me out of it. He then got me a knife and a screw-driver, and said he would get some wax, but was afraid he would be suspicioned. I took the knife, screw-driver, and tickets. I went down home after I took the tickets and knife and screw-driver. After supper I came up town and went up stairs in the court-room, and remained until it became dark. About half-past 7 or 8 o'clock I went into the room where the election had been held that day, and talked there a few minutes, and then said I would lay down and go to sleep, the ballot-box being in said room at that time. In the room were the two policemen above named and the registrar, Hooper. The judges and registrar had given orders that no person was allowed in the room but the two policemen, but upon knocking at the door I was admitted without any resistance. The registrar, Hooper, had the ballot-box in charge, and the two policemen were assisting him in guarding of it. Both the registrar and the two policemen were republicans and supporters of W. T. Clark. Just before I laid down to sleep I made the remark to wake me up about 12 o'clock. Between 12 and 1 o'clock the policemen woke me up. I then told Wallace to fetch me the ballot-box. There was a candle burning in the room at the time. The west window of the room had curtains to it, and the south window had no curtain. The box was brought by Wallace to the southwest corner of the room. I then told them to bring the light to me, which, at that time, was setting on the mantel-piece. I took the seals off the heads of three screws, and turned the lid on the fourth screw. After loosing the sealing-wax I used the screw-driver which Booth had given me to remove the screws. The effect of this was to expose the entire ballot-box. I then removed it from the bench to the floor. With the assistance of the two policemen we commenced removing the Giddings tickets, and the first time removed exactly one hundred Giddings tickets. After removing the first hundred we then scattered in through the box one bundle of the tickets which Booth had handed me, which were all Clark tickets. With the assistance of the policemen took out two hundred more Giddings tickets, and scattered in two bundles more of the Clark tickets, which I had received from Booth, making three hundred in all that had been removed and replaced by Clark tickets. The screws of the box were then replaced and resealed, and put in the same place that it was left on that night. After which I came out of the room and went out at the west door of the court-house. I saw a policeman standing at the west window, and he spoke to me and asked me if I was going home. I told him I was. The Giddings tickets I took from the ballot-box I put them in my pockets and carried them out with me and put them in the fireplace and burnt them up. When I came in, the registrar, Mr. Hooper, was sitting up, talking, and made no objection at all to my coming in. He was awake at the time I told them to wake me up about 12 or 1 o'clock. I was present when the votes were finally counted out; and the votes that I put in were all counted out, with the exception of four, and the tally-list not corresponding the four were afterward counted. I was present from the beginning to the end of the election, and do not know of any illegal or fraudulent votes being cast for Colonel Giddings. The next morning I asked Hooper, the registrar, if he had heard us at the box. He said no; that it was very well done. When going to dinner on the second day of the election, Booth came and asked me if they suspicioned anything in regard to the box, and requested me to open the box again, which I refused to do.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans

were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. To what political party did the managers of the election and the State and special police belong, and whom did they support at the late congressional election?—Answer. All were republicans and supporters of Clark.

Q. What became of the ballots after the counting out of the vote?—Answer. They were immediately burnt—thrown on the floor and a match set to them. There was so many new ballots that they were afraid it might cause suspicion.

Question. Was there any violence or intimidation practiced toward the registrar, or any of the judges of the election, whereby they were prevented from performing their duties?—Answer. None whatever.

GEORGE S. CHAMBERS.

Sworn and subscribed to before me this 21st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

GEORGE R. HART, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. George R. Hart; aged forty years; reside in Hillsborough, Hill County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th of October, 1871, during the late congressional election?—Answer. I was in Hillsborough, Hill County, all the time.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I know of none.

Question. To what political party did the registrar, the judges of election, and special police in Hill County at the late congressional election, belong?—Answer. It was my understanding that they all belonged to the republican party and were supporters of Clark; if there was any democrats among them I don't know of it.

Question. How was the election conducted—peaceably, quietly, or otherwise?—Answer. It was conducted peaceably and quietly, and the election orders of the governor were observed in Hill County, so far as I know.

Question. With which political party did you affiliate at the last congressional election?—Answer. With the republican party, and voted for W. T. Clark.

Question. What character of men were selected as registrar, judges of election, and the police who had charge of the ballot-box at night?—Answer. With the exception of Dyer Arndt, one of the judges, the standing of the balance was not good. Hooper, the registrar, was selected by the republicans, and his appointment urged by us republicans, because we knew that with him to manipulate the ballot-box we could carry the county for Clark; we knew that he could be relied on for that purpose, as we had tried him at a former election and he had helped to stuff the ballot-box (that is, take out and put in tickets) so as to bring about a republican majority.

Question. State whether or not it was the understanding among republicans that the ballot-box should be opened, and Giddings tickets

taken out and Clark tickets placed in their stead?—Answer. It was my information from a prominent republican, and those who were managing the election; and that was the reason for urging the appointment of Hooper as registrar.

Question. Did you see any confidential letters from any of the State officials to republicans in your county, in relation to the appointment of election managers? State from whom and to whom, and what construction was placed upon it.—Answer. Some little time previous to the election I saw a letter with the word "confidential" written across the top of it, and addressed to J. H. Lippard, a prominent republican of Hill County, and signed by J. B. Newcomb, secretary of state, stating certain names in connection with the appointment of registrar and judges of the election, and asking whether or not can we rely or depend upon them; from which I understood he wanted men to stuff the ballot-box.

Question. Did you or not, previous to and during the election, hear prominent republicans express themselves as to who would get the certificate of election, no matter what the result might be?—Answer. I learned that it was the understanding of prominent republicans that Clark would get the certificate of election, no matter what the result might be, and was told to me as coming from Davis.

Question. Do you know of any understanding among republicans in relation to stuffing the ballot-box at the late congressional election, so as to bring out a majority for Clark?—Answer. It was the understanding, as I learned from conversation with W. L. Booth, one of the leaders, that the Giddings tickets were to be taken out of the box and Clark tickets put in in their stead, and if they were so closely watched as to be prevented, then some pretext was to be made to upset the election. After the appointment of Hooper, as registrar, the republicans felt perfectly safe, and talked no more of breaking up the election.

Question. What is your estimate of the vote in Hill County, with a fair registration and a full, fair election? What would be the majority?—Answer. My estimate is that the democratic party has a majority in the county of 400 odd.

GEO. R. HART.

Sworn and subscribed to before me this 21st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

S. L. HAMILTON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. S. L. Hamilton; forty-eight years old; reside in Hill County, Texas.

Question. Did you hear, previous to the late congressional election, republicans speak as to what the arrangements were to carry Hill County for Clark?—Answer. I did. I heard Thomas Ford, supervisor of public schools, say that arrangements were on foot to carry Hill County for Clark, and that it would certainly be done. Ford is an intimate friend of Booth, and did make his headquarters at that time at Booth's, in Hillsborough, Hill County.

Question. Do you know the political sentiments of Hill County, and what is the relative strength of the two parties on a fair vote and a fair count?—Answer. I know the political sentiments of Hill County. Upon a fair vote and count there would be three democrats to one republican.

Question. To which political party do you belong?—Answer. I have no claim to either.

S. L. HAMILTON.

Sworn and subscribed to before me this 29th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

C. S. WEST, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. C. S. West; age, forty-two years; and am an attorney at law, in the city of Austin, Texas.

Question. Do you know of any demand made by contestant of the governor and secretary of state for the certificate required by law in cases of congressional elections? State any facts that may have come to your knowledge.—Answer. I do, as the agent of the contestant, acting under written authority from him. I made a formal demand of the governor and secretary of state in behalf of contestant, for his proper certificate of election, as required by the laws of the State of Texas. This formal demand in writing was delivered to the governor and secretary of state and received by them; and I attach a correct copy to the end of my answers, with my name written across the back thereof for identification. Receiving no reply to this demand in behalf of contestant, I visited the governor in person; the date of this visit I cannot remember, but was some eight or ten days after the date of my letter spoken of above, and about the 3d or 4th of November, 1871. I then repeated my demand for the certificate and return in person, and called the particular attention of the governor and secretary of state to the particular clauses in the law on the subject, and the clauses; and showing, from the law, in congressional elections, that the governor and secretary of state were mere ministerial officers; and their duty simply was to count the votes and give the certificate to the one having apparently the largest number of votes; and that then Congress would determine who was then entitled to the seat. I also called upon them at a subsequent time, six or seven days afterward, and again demanded the certificate for Colonel D. C. Giddings. He stated to me that he had not then quite completed the count. I then informed him that I understood that he was going to reject the vote of Brazos County, because the votes were numbered. He said he had not made up his mind whether he would reject them or not. I then explained to him the illegality of rejecting this vote, contending that if the election was fair the voters could not be cheated out of their choice by the mere fact that the officers had numbered the ballots, insisting that the officer might be punished for it, but the candidate was entitled to have the vote counted for him. The governor intimated that he would reject the vote. Upon his giving me this information, I stated that the votes of Walker County were numbered, and asked that they be rejected also. He said he was not aware of the fact. I told him I would furnish proof to that effect, and did furnish him the affidavits of a republican and democrat, who were permitted to be present under his proclamation, to the fact that the ballots of Walker County were marked or numbered. The vote of Walker County was counted for Clark, and the vote of Brazos County was not counted for Giddings.

Question. What official positions have you held, and what time would it ordinarily take to count out the vote at the late congressional elec-

tion?—Answer. I have held at one time the position of secretary of state; and while acting in that capacity had occasion to count votes at a congressional election held in the State; also counted some local elections. I think, with the use of competent clerks and tables, that the whole vote of the last October election could be counted in five or six days, or at the outside in a week.

Question. Did you or not call the attention of the governor or State officials to the right of foreigners, upon twelve months' residence and declaration of intention to become citizens, to register and vote? State all you know upon the subject, and the reasons for such parties' names being stricken from the rolls.—Answer. I did, on more than one occasion, call the attention of the governor to the right of foreigners to vote under the circumstances mentioned in the question. At first the views of the officials seemed favorable to the foreigners' right to vote. This was during the registration. At that time it was somewhat doubtful which way the foreign vote would go. In the previous election they had voted the republican ticket, and many persons, just before registration, and during the first days of registration, believed they would vote the republican ticket again; but before the election, from the popular demonstrations in Harris, Galveston, Austin, Washington, Colorado, Fayette, Bastrop, Comal, and Bexar Counties, it became evident that, smarting under the heavy taxation, the Germans had determined not to support the republican ticket in the election. The counties above named contained the heaviest German population in the State. It was after these demonstrations that, notwithstanding the constitution of the State, that, under one pretext or another, a large number of the German votes were not counted or not allowed to vote at all. These, with few exceptions, it was understood would have voted the democratic ticket.

Question. Do you know George S. Chambers, the witness who testified in relation to the Hill County election; and do you know of his having testified of the same facts? If so, state the circumstances under which, and all facts within your knowledge in relation to the same.—Answer. I am acquainted with the witness Chambers. When the Federal grand jury, sitting in Austin in January, 1872, were engaged in investigating the election frauds in Hill County, and other counties of the third congressional district, though it was pretty generally understood that the most glaring frauds had been practiced in Hill and other counties, yet it was found somewhat difficult to find witnesses who had actual personal knowledge of these matters, as most of those who knew the facts were themselves participants in the crime. Under the circumstances it was deemed best, if possible, to find some one who would reveal their secrets. And as Chambers was a young man of some intelligence, and actually cognizant of the frauds in Hill County, the United States district attorney concluded not to prosecute him, in order to have the benefit of his disclosures against the really guilty parties who had evidently used Chambers as their tool. Under the assurance from the district attorney that he would not be prosecuted Chambers detailed to the district attorney the same facts as disclosed in his evidence here, and he was then taken by the district attorney before the Federal grand jury, and on his evidence and that of others, it is presumed, indictments were found against the guilty parties.

C. S. WEST.

Sworn and subscribed to before me this 21st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

AUSTIN, TEXAS, *October* 25, 1871.

GENTLEMEN: A sufficient period having elapsed after the expiration of the time of making returns of the election for Representative in Congress for the third congressional district of the State of Texas, at the election held in said district on the 3d, 4th, 5th, and 6th days of October, for a certificate of the returns of the election for such Representative to be entered on record by the secretary of state, and signed by the governor, as Representative elect for said district at said election, I have the honor to request that you will immediately deliver to me a copy of the certificate of returns of the election for such Representative, at said election, in said third congressional district, subscribed by the secretary of state and the governor, as directed and required by the twenty-third section of the act of the legislature of the State of Texas, entitled "An act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box," approved August 15, 1870, to which I have the honor of inviting your attention.

If, for any reason, the certificate of returns, as required by said twenty-third section of the law above referred to, has not been made, as one of the candidates voted for as such Representative for said third congressional district, and from the published returns of said election in the various counties of said district generally and publicly reputed to have been elected at said election, I respectfully request to be informed in writing the reasons why said certificate of returns of said election has not been entered of record, as required by said twenty-third section of said act previously referred to.

I have the honor to be, very respectfully, your obedient servant, &c.,

D. C. GIDDINGS.

His Excellency E. J. DAVIS,
Governor, &c.,
And Hon. JAMES P. NEWCOMB,
Secretary of State.

Indorsed on the back: "C. S. West."

The above copy is corrrect.

C. S. WEST.

FEBRUARY 21, 1872.

W. M. WALTON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. M. Walton; forty years old; Austin, Travis County; resided there for nineteen years, and a lawyer by profession.

Question. Do you know of any demand having been made by contestant for certificate, as member elect as Representative to Congress, on E. J. Davis, governor, and J. P. Newcomb, secretary of state? and if so, state all facts that occurred at the time the demand was made.—Answer. I do. In company with C. S. West, as the agent of D. C. Giddings, and J. P. Douglass, as the agent of W. S. Herndon, I, as the agent of John Hancock, called to see Governor Davis, governor of Texas, and J. P. Newcomb, secretary of state of the same State, on or about the 3d, 4th, or 5th of November, 1871, to demand, in our respective capacities, a certificate of the result of the election for congressman held in Texas, ending on the 6th of October preceding. After some delay and persistence on our part to get an interview, an interview was appointed for 10 o'clock the next day. At that hour we three held an interview with said governor and secretary of state, whereat we were informed, the governor being spokesman, that the count of the votes had not been completed, but would be completed within the next three or four days. Thereupon we left, and in eight or ten days thereafter C. S. West and myself again called upon the governor when the secretary of state was not present, and we demanded of him the delivery of the certificates of the result of the election aforesaid, in behalf of our respective clients, and received in reply that the count of the votes had not yet been completed, and that the board of canvassers was considering of counting or not counting the votes from certain counties, and among

them the county of Brazos, it being urged against counting the vote of that county that the votes had been marked or numbered when cast, and put in the ballot-box by the judges of the election, he saying at the time that the board had not determined whether it would or would not count said vote. When said objection was stated by the governor, C. S. West explained to him what he understood the law to be upon that subject; that while it might be an irregularity on the part of the officer receiving the votes, did not in law, and ought not in justice, to deprive the voter of his voice in the election, or the candidate of the count of said votes. Without determining the said question at the time, the said West, in my presence, informed the governor that the vote of Walker County had been also numbered or marked at the time cast, and that if the county of Brazos should be thrown out by the board of canvassers because of being marked, that the vote of Walker County should be thrown out for the same reason. The governor said that he knew nothing of the fact as charged in relation to Walker County, but that the board would give the matter consideration. I afterward learned, but do not know as a fact, myself, that C. S. West did furnish the board of canvassers with affidavits showing that the vote of Walker County was numbered by the judges of election as the votes were cast. I have since seen the publication of the official count as made by the board of canvassers, composed of the governor, secretary of state, and attorney general, as published in the State Journal at Austin, the official journal, and in said count the vote of Brazos County is not counted, and the vote of Walker County is counted. D. C. Giddings received a majority of votes in Brazos County, and W. T. Clark received a majority in Walker County. So far as I have seen, or have been able to learn, the same objection existed against counting the vote of Brazos County that existed against counting the vote of Walker County, and no other objection. I then asked the governor myself what character of publication he intended to make as to the result of the election for Congressmen in the different districts. He replied to me that he would make a tabular statement consisting of three columns; that the first column should state the gross vote as it was returned to the secretary of state; the second column should contain the objection urged against counting the votes of any county; and the third column should contain the net result as arrived at by the board, applying the objections to the gross returns. The published tabular statement will show the gross vote, the objections urged, and the net results. At said interview I was informed by the governor that the certificate of election would be awarded to John Hancock for the fourth district, but that the certificates of Herndon and Giddings would depend upon further investigation. Having satisfactory assurances in reference to the certificate of Hancock, I did not again see the governor upon this subject.

Question. Do you know W. H. Tracy? What office does he hold? When and by whom appointed?—Answer. I know a man who was introduced to me as W. H. Tracy, and who at repeated interviews with me called himself W. H. Tracy, who stated further, that he was a resident of Galveston County, Texas, and was, without his knowledge or application, appointed by Governor Davis registrar of Freestone County, Texas, in the first part of the month of September, 1871. He further informed me he exercised the duties of registrar of Freestone County, and held the election therein for Congressman, the election ending on the 6th day of October, 1871. A registrar in Texas, under the law, holds his office for two years, unless sooner removed.

Question. Did he make any statement to you in reference as to the

manner in which he discharged his duty as registrar and as officer of the election?—Answer. Yes; the said Tracy voluntarily sought me and made a statement in reference to the discharge of his duty as registrar, but more particularly as to the discharge of his duty as an officer of the election. Not being willing that his statement should rest in my memory, I had his statement written out by my clerk in part and partly by myself, read it over to him, and had him to swear thereto, and have preserved the same to this time, and here append it as part of my answer to this interrogatory, having written my name across the back thereof, for the purpose of identification. The said statement is appended in the exact words as sworn to by the said Tracy.

Statement of W. H. Tracy, made at Austin, Texas, November 1, 1871.

My name is W. H. Tracy; my home is Galveston, Texas, at No. 219, Post-office street; have lived in Galveston since the 1st of last March.

I was appointed registrar of Freestone County about the 7th or 8th of September, 1871, but knew nothing of the appointment till I came to Austin on other business. While at Austin I met Colonel Tracy at the capitol, and he asked me, "Why I was not attending to my business." I asked, "What business?" He then told me that I had been appointed registrar of Freestone County. He told me that I must start immediately for that county, and proceeded to give me my instructions, which were as follows: That I must carry that county, at all hazards, for Clark; that it made no difference how many democratic votes were polled in that county, they must be counted for Clark.

He then proceeded to tell me that if I did as directed, I should be rewarded by some good office.

I left Austin on the 12th day of September, and arrived at Groesbeck on the 13th, where I met General William T. Clark, Judge Oliver, Judge Thurmond, Bonner, and others, who proceeded to explain to me the manner in which they intended to conduct the coming election, which was as follows: They would issue bogus certificates to enable parties to vote more than once; to stuff the ballot-box if necessary to elect Clark; and instructed me to do the same; and that, if I found out that it was necessary, to let men who came from Limestone County vote in Fairfield.

I also recived instructions from headquarters (of police) to instruct the police to work for the republican party, and to keep all freedmen who would vote the democratic ticket from the polls, if possible, which written instructions I gave them and they acted under them, as I suppose. The understanding was that they were to work for the election of Clark.

I immediately went to Fairfield, where the registration was going on under Mr. James King, former registrar of Freestone County, but who had been removed because he was not a Clark man. I immediately took possession of the office and proceeded with the registration of voters, and did my duty according to law up to the beginning of the election.

The first day of the election I received from Mr. Bonner, registrar of Limestone County, a letter telling me of the killing of Applewhite; that it was the best thing that ever happened for our party; that he had sent runners all over the county to tell the negroes not to vote at all; that the vote would be thrown out or counted for Clark anyhow, and told me that I had better do the same. I did not send runners as suggested by him, because I did not think it was right. There was a full and free vote in Freestone County.

Of my own knowledge, I know of no intimidation, on the part of democrats, to keep republicans from the polls, or from voting when there. I know of a number of freedmen that were told by their own party that it made no difference whether they voted or not, Clark was the man who would be elected.

I was told by the leading parties, viz, Tracy, Oliver, and others, at headquarters, that if I could do no better to come away with the ballot-box and books before the ballots were counted, and this I refused to do; but counted the votes in open daylight in the presence of the sheriff, two deputies, and the judges of election, and the democrat appointed by me at the suggestion of the democratic club; Clark receiving 747 votes, Giddings, 1,180; being a majority in favor of Giddings of 433 votes.

My report of the election was made under excitement and fear at Springfield. Mr. Bonner, registrar of Limestone County, made that report for me. I signed it, and swore to it, not knowing the contents until the following day. I was embarrassed, on account of inexperience, never having filled such a position before. The town was full of people, and guarded by police.

Knowing that I have been used as a tool, for the accomplishment of unjust purposes, but disclaiming purposely doing anything to obstruct a full, free, and fair vote, I make these statements hoping they may aid in overcoming the evil results of the acts of others for which my position made me responsible, and I hold myself ready and willing at any time to appear before any tribunal and make oath of the foregoing facts as stated, and also of other frauds perpetrated upon the people and within my knowledge.

I have some correspondence between myself, Tracy, (J. G.,) Newcomb, Bonner, Thurmond, Governor Davis, *et al.*, which is of purport in substance as what is stated in the foregoing. While no express violation of law was ordered, yet the intent and meaning thereof were directed to one end alone, viz, to carry Freestone County for Clark at all hazards. I was verbally promised rewards for carrying the county, and, in writing, urged to do the same thing, and that it would make a man of me, &c.

The special police were used in Limestone County as runners for the party, and to convey to the blacks the wishes of Mr. Bonner. It was the especial duty of the policemen to prevent the blacks from voting in Limestone County; or if they or any of them would vote, to see to it that they voted for Clark. I was directed to give like instructions to the police of Freestone County, but did not do so. I am fully convinced that it was the deliberate determination of Davis, Newcomb, Davidson, Tracy, Quick, and others to carry Limestone and Freestone Counties for Clark, or else produce the present condition of things, and I utter this conviction from an intimate knowledge of the facts and circumstances which transpired prior to and during the days of the election.

I turn over what correspondence I have with me, and will forward the remainder to W. M. Walton on my arrival at Galveston.

W. H. TRACY.

Sworn to and subscribed to before me this 1st day of November, A. D. 1871.

L. W. COLLINS,
Notary Public, &c.

Indorsed on the back: "W. M. Walton."

Question. Did he, at the same time of delivering to you that statement, deliver to you any original letters? And, if so, append the same to your answer; and state whether or not you are acquainted with the handwriting of the signers of said letters, and if the signatures thereto are in the handwriting of the parties purporting to have signed the same.

Answer. He did. He delivered to me two original letters, one signed J. G. Tracy, and the other signed J. M. Thurmond, and promised to deliver me several other original letters signed by E. J. Davis, governor, and J. P. Newcomb, secretary of state. I append to my deposition the two original letters delivered. I know the handwriting of J. G. Tracy and J. M. Thurmond, and do not hesitate to say that the letters signed by them, or purporting to be signed by them, were written in the body and signed by the parties whose names are signed thereto. I have written my name across the back of said letters to identify them.

OFFICE OF STATE JOURNAL,
Austin, Texas, September 25, 1871.

DEAR SIR: Your two letters have been received. I have written to Thurmond, asking him to go over or send some one, and I suppose ere this he has done so.

I like the way you write, and believe you will give a good account of yourself. Carry the county; I know you can, and it will make a man of you. I directed Thurmond to take tickets over with him. If he does not, have some struck at the Ledger office. Be sure the name of General Clark is spelled right on them.

Truly yours,

J. G. TRACY.

W. H. TRACY, Esq.,
Fairfield.

Indorsed on the back: "W. M. Walton."

GROESBECK, *September* 27, 1871.

FRIEND TRACY: Give public announcement that, on Monday, the day previous to election, I, Hall, Stevenson, and several other speakers, will speak at Fairfield, commencing at 10 o'clock a. m. Everything is for Clark. I wish the republicans from all parts of the county present. Send specials out in every direction.

Please send bearer of this, or some one else, to Judge Thomas's residence and tell

him to come to Groesbeck without delay. I have important news for him. He must come, and if possible the day he receives this word. Don't fail in this. Do your duty; much is expected.

Your friend,

J. M. THURMOND.

REGISTRAR AT FAIRFIELD, *Present.*

Indorsed on the back: "W. M. Walton."

Question. To what political party does J. G. Tracy and J. M. Thurmond belong, and what official positions do they occupy?—Answer. J. G. Tracy and J. M. Thurmond claim to belong to the republican party. J. G. Tracy was postmaster at Houston by Federal appointment, and public printer of the State of Texas by election of the legislature; editor of the State Journal, the official organ; one of the editors of the Houston Union, the official journal for that judicial district; and chairman of the executive central committee of the republican party of this State. J. M. Thurmond was judge of one of the district courts in the State, who held his appointment from Governor Davis, and were both active and zealous supporters of W. T. Clark, against D. C. Giddings, for Congress.

Question. Do you know of any efforts of the governor to have the names of foreigners stricken from the registration lists? and, if so, his reasons therefor.—Answer. I can answer this question only from what was known through the country as common knowledge. In the election for governor the German vote was cast, as a vote, for the republican party. At the opening of the canvass for Congressman in 1871 it was claimed by the republican party, and, so far as I know, believed, that the German vote would be cast in the same way at the then pending election. The enormous taxation for this State, in connection with other measures of legislation fathered by the republican party, had alienated the Germans from that party, which fact was only developed at the popular demonstrations made during the canvass, and particularly just prior to the election. When the fact of alienation became manifest, the governor not only repeatedly refused to give instructions to his registrars in German counties to register persons who were legally entitled to vote, but on the contrary gave instructions to strike from the list of registered voters large numbers of persons who were legally entitled to vote, having declared their intentions to become citizens of the United States in conformity to the law. These instructions to strike registered voters (Germans) from the list of registration were, in a great majority of instances, literally obeyed, so, thereby, large numbers of voters were deprived of their voice in the election.

W. M. WALTON.

Sworn and subscribed to before me this 21st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned to meet at Kossee, Limestone County, Texas, on Monday, the 26th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages

hereto attached was taken and reduced to writing by me, on the 21st day of February, A. D. 1872, at office in the City of Austin, Travis County, Texas; that the examination was conducted on the part of contestant, D. C. Giddings, by himself; that W. T. Clark, contestee, was not represented.

Given under my hand and official signature, at office in Austin, Travis County, this 21st day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 16.—*Depositions taken in Navarro and Hill Counties.*

D. C. GIDDINGS
vs.
W. T. CLARK.

In the matter of contested election from third congressional district of Texas, now pending before the Congress of the United States, wherein D. C. Giddings is contestant, and W. T. Clark is contestee, it is agreed that contestant shall commence taking testimony at Corsicana, Navarro County, before D. G. Worrell, United States commissioner, on the 27th day of February, 1872, and may examine all such witnesses as may appear before said commissioner, hereby waiving time and notice, and all formalities in election to taking testimony.

T. G. DAVIDSON,
Attorney for Contestee.
D. C. GIDDINGS.

FEBRUARY 1, 1872.

UNITED STATES OF AMERICA,
Western District of Texas:

To any legal officer of said district, greeting:

You are hereby commanded to summon the parties whose names are indorsed on the back hereof, to be and appear before me, a United States commissioner, western district of Texas, at office in the city of Corsicana, Navarro County, on the 27th day of February, A. D. 1872, to give evidence in behalf of contestant, wherein D. C. Giddings is contestant and W. Clark contestee for the seat of member of Congress in the Forty-second Congress of the United States from the third congressional district of Texas, and to remain from day to day until duly discharged by law. Herein fail not, under the penalty of the law.

Witness my hand and official signature, at office in Brenham, this 20th day of February, A. D. 1872.

D. G.WORRELL,
United States Commissioner, Western District Texas.

[Indorsement.]

John W. Irwin, Robert W. Walton, William Leevier, William Melton, William A. Lockhart, S. R. Frost, C. M. Winkler, R. Q. Mills, William

Croft, Joseph Steele, J. M. Thurmond, S. L. Hamilton, L. Gould, W. A. Halurt.

Came to hand February 25, 1872; executed February 27, 1872.

T. KEMP,
Deputy United States Marshal, Western District of Texas.

Deputy's fees:	Fourteen subpœnas	$7 00
	Mileage on same	155 50
		162 50

UNITED STATES COMMISSIONER'S OFFICE,
Corsicana, Navarro County, Texas.

Met, pursuant to adjournment and according to agreement and notice given, at 10 o'clock a. m., February 27, A. D. 1872. Present, D. G. Worrell, United States commissioner, and D. C. Giddings, contestant:

W. A. LOCKHART, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. W. A. Lockhart; age, fifty-one years; reside in Navarro County, and have resided in said county since 1851.

Question. Were you present at an election held in Corsicana for member of Congress on the 3d, 4th, 5th, and 6th days of October, 1871, and in what capacity?—Answer. I was present, and during the first day and until 10 or 11 o'clock the second day acted as a citizen selected by the election managers under the governor's proclamation. During the first day a negro boy whom I had raised offered to vote; I stated to the judges that I knew his age, and he was but nineteen or twenty years old, and I objected to his voting; I said nothing to the negro boy and he was allowed to vote and voted for W. T. Clark. On the second day of the election, about 10 or 11 o'clock a. m., one Edwards, claiming to be deputy United States marshal, told me that my presence there was detrimental to the interest of the radical party and that he would relieve me. I asked him why, and he said I had been in the county too long and knew too many negroes, and that too many negroes knew me.

Question. Do you know of any violence, fraud, or intimidation practiced by contestant or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. How was said election conducted—fairly, quietly, and freely, or otherwise? and state all you know in relation thereto.—Answer. There was no disturbances of any kind, and the election orders of Governor Davis were observed in every respect. The registrar, the judges, and clerks of the election, and State and special police were all republicans. A line of policemen was formed, and the voters passed to the polls in double file between the lines of armed policemen, who were supplied with Spencer rifles, the citizens being disarmed. On the night of the first day of the election I proposed the ballot-box should be locked up in some safe, which they refused, and retained possession of the box themselves. No one belonging to the democratic party was allowed to be present with the box during the night.

Question. Do you know of any violence, fraud, or intimidation practiced by contestee or any of his political friends, whereby persons were

prevented from voting as they pleased?—Answer. I know that the police scoured the country for voters, and told them if they did not come and vote the radical ticket they would all be put back into slavery. I know they changed the tickets of parties who wanted to vote the democratic ticket. I also heard several of the armed colored policemen, who were stationed in the room above the polls, after it had been discovered that a colored man had voted the democratic ticket, cry out, "Take him out and hang him," and some cried out, "Shoot him."

Question. From your knowledge of the political sentiments of the people of Navarro County, what would be the relative strength of the two parties on a fair count and a fair vote?—Answer. The democratic party would vote two or three to one.

(Cross-examination waived by contestee.)

W. A. LOCKHART.

Sworn and subscribed to before me this 27th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

W. A LOCKHART recalled by contestee.

Question. Were the citizens disarmed by the police force on duty that day?—Answer. I know, by the governor's proclamation, that the citizens were not allowed to carry arms while the election was being conducted, and that I had no arms myself; that I was ordered by a police that was stationed around a line of voters, after being called by a friend in the line to hand him a vote, I was ordered by a policeman not to approach the line, and was not allowed to go.

W. A. LOCKHART.

Sworn and subscribed to before me this 28th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

WILLIAM MELTON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided there?—Answer. William Melton; age seventy-four years; reside in Navarro County, Texas, and since 1851.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election in Navarro County, and in what capacity?—Answer. I was at Corsicana, and on the second day of the election Mr. Irwin met me on the street and told me that the judges of the election and registrar wished me to take the place of Captain Lockhart, as a citizen, under the governor's proclamation, which I did, and continued to act as such until the close of the voting, when, on account of not being able to see well, and also being hard of hearing, I asked the judges to allow Colonel Winkler to be present in my place during the counting out, which they did.

Q. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. What use were made of the State and special police during the election?—Answer. There was a guard all around the court-house,

some twenty-five or thirty steps from the house, and two files of armed policemen, through which the voters had to pass in going to the polls.

Question. With which political party did the officers of the election and special police affiliate?—Answer. With the republican party.

Question. Who had charge of the ballot-box after the close of the polls?—Answer. I can't tell. When I left it was in the room where the voting was done. During the time I was present with the judges, so far as they were concerned, everything seemed to be fair. I was not with the judges or the ballot-box after the close of the voting.

WM. MELTON.

Sworn and subscribed to before me this 27th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOHN W. IRWIN, a witness on behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. John W. Irwin; age, twenty-four years; reside in Corsicana, Navarro County, Texas, for about one and one-half years.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election, and in what capacity?—Answer. In Corsicana, Navarro County, and acted as one of the judges of said election.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Said election was conducted, to the best of my knowledge, peaceably, quietly, and fairly.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends whereby republicans were prevented from voting for the candidates of their choice?—Answer. None came under my observation, I having been in the election-room during the time of voting.

Question. Describe the ballot-box, and in whose possession was the box left after the close of the election?—Answer. It was an ordinary wooden box, about 10 by 14 inches, and about 8 in height. It was left in possession of the registrar after the close of the polls. It was sealed by pasting a patch over the hole in the box through which the ballots were deposited, and after delivering the box into possession of the registrar the judges of election and citizens left the room and did not have access to the same until the opening of the polls, until the next morning.

Question. Were any seals placed upon the sides or edges, so as to prevent the removal of any of the sides, or top, or bottom of the box?—Answer. No other seals were placed on the box except the paper patch placed over the hole.

Question. Could the top or bottom have been removed without disturbing the patch on the top of the same; and how was the top and bottom fastened?—Answer. I think they could have been removed. I don't remember distinctly how it was fastened, but think it was fastened with nails.

Question. Do you know, of your own knowledge, of any unfairness or partiality on the part of any one intrusted in managing said election, in the manner of receiving, safe-keeping, and counting the votes at said election?--Answer. There was no unfairness or partiality in the manner of receiving the votes. The votes were in the safe-keeping of the registrar, after the close of the polls, until they opened again. The count-

ing of the votes was fair and impartial. The election was conducted as far as could be by law, in favor of Clark, outside of the judges of the election.

Question. With which political party did the registrar and judges of the election, and clerks, affiliate?—Answer. The registrar I believe to be a republican; the judges of the election all voted the republican ticket, as far as I remember.

Question. Have you heard any person interested in conducting said election speak of any unfairness, fraud, or partiality, practiced by any such persons so conducting said election? and, if so, state who they were and what they said.—Answer. No.

Question. Do you or not know that one G. W. Smith, in command of a party of State police, took part in conducting said election? If yes, say what he did and how he acted, whether in the interest of either candidate; and if so, in which candidate.—Answer. G. W. Smith commanded a party of State police, for the preservation of the public peace, during the election. He guarded the court-house and polls. He quartered the police in the court-house, and placed a line of pickets around them. With the exception of the registrar and judges of the election, with the two citizen witnesses, no others were allowed to pass without permission from G. W. Smith. I believe he acted in the interest of W. T. Clark.

Question. Did, or did not, the said Smith send out armed parties to different parts of the county and bring in by force, and otherwise, negroes to vote in said election?—Answer. I understood he sent out parties to persuade the negroes to come and vote. I did not hear of any case where he used force.

Question. Did you hear of his telling them that if they did not come in and vote for Clark, they would be put back into slavery again?—Answer. No. Never heard him make use of that expression.

Question. Did the number of votes counted out at the close of the election correspond with the number on the list of voters; and if not, what was the difference, and what was the cause of the difference?—Answer. The votes counted out were less than the number on the poll-lists, by about twenty-two or twenty-three, I think. The cause of the difference arose from people whose names had been put on the poll-list, and, having been rejected after examination, were not allowed to vote, and their names omitted to be taken from the lists. I believe the difference arose from the foregoing manner.

Question.—Do you know of any parties having access to the ballot-box from the closing of the polls until before opening the same the next morning?—Answer. Nobody but the registrar had access to the box. The registrar slept in the room with the box. Smith and his police slept in the court-room above.

JOHN W. IRWIN.

Sworn and subscribed to before me this 27th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

R. W. WALTON, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. R. W. Walton; thirty-eight years old; Corsicana, Navarro County, Texas.

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871, during the late congressional election, and in what capacity?—Answer. I was in Corsicana and was present on those days, representing the republican candidate under the governor's proclamation.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. The election passed off peaceably and quietly; I heard of no disturbance whatever. So far as depositing the ballots in the box, everything was fair.

Question. To which political party did the registrar and the managers of the election belong?—Answer. To the republican party.

Question. What use was made of the State and special police during registration and election?—Answer. The State and special police were here for the purpose of keeping the peace during election. They and their commanders belong to the republican party.

Question. Describe the ballot-box used, and the manner in which it was sealed.—Answer. The ballot-box was a small box, such as is used for putting up bitters in, about 12 inches square, and about 14 inches long. The box was sealed by placing a piece of paper over the hole through which the ballots were passed, with mucilage. There was no seal placed on any portion of the box, other than the one just spoken of. If there was I did not know it.

Question. Could not the top or bottom of the box have been taken off without defacing the seal?—Answer. It could have been done. It was a nailed-up box, with small nails; and with a chisel or knife it could have been removed without defacing the seal.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends whereby republicans were prevented from voting for the candidates of their choice?—Answer. Not of my own knowledge, on either side.

Question. Do you know in whose charge the ballot-box was during the recess from the closing of the polls to the opening of the same?—Answer. In charge of Hanson, the registrar, who I understood had the exclusive charge of the ballot-boxes.

Question. To which political party did G. W. Smith belong, and what part did he take in the said election?—Answer. He belonged to the republican party; and was an active supporter of Clark; and made himself very officious during the election. Said Smith had command of the State and special police; placed a chain of sentinels around the court-house; allowed no one except the manager of the election to pass without his permission. The voters were ordered to fall in a line on the north side of the court-house, between two lines of policemen, and approach the polls only in that way; the line sometimes extending some two hundred yards distance from the polls.

(Cross-examination waived by contestee.)

ROBT. W. WALTON.

Sworn and subscribed to before me this 27th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

WILLIAM SEEVER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. William Seever; thirty-eight years old; reside in Corsicana, Navarro County, Texas.

Question. Where were you during the late congressional election in this county, and what position did you occupy?—Answer. I was in Corsicana, and was a city policeman.

Question. How was said election conducted—peaceably, quietly, and fairly, or otherwise?—Answer. Said election was conducted peaceably and quietly; the election orders of Governor Davis were obeyed. In regard to the fairness, I don't believe that both parties had an equal showing, because the officers of the election and the police, with the exception of two, belonged to the republican party, and all active supporters of Clark. The police were thrown around the court-house as a picket, and all were compelled to form in line to approach the polls, and the older citizens were compelled to stand in line, or send for chairs, in order to keep their place in line, and have an opportunity to vote, and there may have been some who were not able to do that and were kept from voting.

Question. Do you know of any parties approaching, or having any connection with the ballot-box, from the closing of the polls until the opening of the polls the next morning?—Answer. Of my own knowledge I do not, but was told by Charles Behrm. He told me that Hanson, the registrar, and one other man, on one night after the polls were closed, and while he was guarding the door of the room in which the ballot-box was, went in and remained some hour and a half, and from the noise made in the room he mistrusted they were tampering with the ballot-box.

Question. Were there any breaches of the peace in Corsicana during said election?—Answer. There was none that had anything to do with the election.

Question. Do you know where G. W. Smith, the commander of the State and special police during the late congressional election, slept during said election was in progress?—Answer. It is my opinion that he slept in the court-house during that time.

(Cross-examination waived by contestee.)

WM. SEEVER.

Sworn and subscribed to before me this 27th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned to meet at 9 o'clock a. m. on the morning of the 28th of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Met pursuant to adjournment at 9 o'clock a. m., the 28th day of February, A. D. 1872. Present, D. G. Worrell, United States commissioner, western district Texas; and D. C. Giddings, contestant; William Teal, attorney for contestee.

R. Q. MILLS, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in the county?—Answer. R. Q. Mills; about forty years old; reside in Navarro County, Texas, and have resided in Navarro County about twenty years, and am a lawyer by profession.

Question. Where were you during registration and the late congressional election; and how was said election conducted? and state all facts

in relation thereto.—Answer. I was in the town of Corsicana, Navarro County, when the election (so called) was held. Said election was conducted as a one-sided affair by emissaries and appointees of Governor Davis. G. W. Smith, who claimed to be lieutenant of the State police, took control of the town with some fifty or a hundred armed persons, white and black, a number of whom were posted in the upper room of the court-house, with their guns pointed through the windows, commanding all approaches to the court-house. A regular line of sentries were posted around the entire public square, armed with army cavalry guns and six-shooters, walking their beats as sentries around a military camp. Most of these armed persons were negroes, and of the few white persons among them a majority were non-residents of the county and strangers to our people. During the night preceding the first day of the election, Smith had gotten most of the negroes of the county and placed them in two ranks, as in line of battle, their right resting by the window of the office in which they were receiving the votes. No persons were admitted inside of the line of investment except members of the radical party, there being but few of them in the county. Some privileged gentlemen—policeman, registrar, deputy marshal, or other—when one of them desired to go through the line to vote or confer with those inside, would conduct him through, (the most of their party in this county were negroes, led by a few white office-holders, and nearly all were inside of the line by daylight next morning,) and the few who came in afterwards were conducted in when they desired, as above stated. I had been unwell for some time, and felt unable to take my place at the foot of the line behind some three hundred others, and spend several hours in the sun, reaching the ballot-box by slow approaches, as one after another voted and gone away, and I appealed to the deputy marshal to let me go through among the few favored ones of the radical party, and cast my vote and go home; but I was very politely informed that that favor could not be granted to me. Others made the same application to different gentlemen exercising authority on the ground, but being democrats, like myself, were refused. A number of colored gentlemen desired to vote for D. C. Giddings, and such as succeeded did so after every effort was exhausted but actual force to prevent it. The whole election was under the control of the radicals. They refused to permit the democrats to put one man on the board and keep him there. We desired to have at least one democrat to be present when the votes were cast, and particularly to stand guard over the box after election hours were over. This was refused us, and we were permitted to write down ten names, and they elected one of the ten to be present while the voting *was going on*, but would not permit a democrat to guard the ballot-box with the radicals. They kept everything so completely in their power as to permit them to do with the ballots as they pleased, and kept us all away, so that we could not prevent it. When the vote was counted out, on the last evening, they reported 2,013 votes cast, and on the last night they counted out the vote, and made 1,000 votes for Giddings and 981 for Clark, showing a loss of 32 votes. As soon as I could approach the county clerk's office I went to examine the poll-book and see what number of votes had been kept on the list, certified and sworn to as required by law. This I could not find. After some weeks I obtained the poll-book from Colonel Winkler, who got it for me from Mr. Hanson, the radical registrar, but it was neither signed nor sworn to, but a leaf was torn off, and otherwise mutilated, blotted, and changed. The election here was a fraud, was one-sided, and I feel well satisfied that of the 2,013 votes placed in the ballot-box during said

election, Giddings received at least 1,000 majority. I know the sentiments of the people of this county well. I was actively engaged in the canvass for months previous, and I am well satisfied that there were not exceeding 50 white votes cast for Clark in the county, and there were some 15 or 20 negro votes cast for Giddings, and if the negroes had not been collected by armed men and kept together, and made to vote the radical ticket by violence and fraud, Giddings would have received a large vote among them, many more than Clark got of white men.

Cross-examined by contestee:

Question. During the election, or immediately preceding the same, did you make the request that a democrat should be placed on guard over the ballot-box during the interval between the hours of voting?—Answer. This subject was mentioned frequently in our democratic club, of which I was an active member, and Colonel C. M. Winkler was president. We firmly believed that the election was going to be a stocked affair and a fraud, but we determined on two things, to submit to every insult placed upon us, to prevent the election being broken up, and also to urge upon the radical officials to comply with every requisition of the law. The law required this to be done, and I demanded it more than once. Having failed everywhere else, I appealed to the deputy marshal, and told him it was his duty to see a fair election. This was on the first day of the election, and also to permit us to put our own representative of our party on the board. He admitted that it was fair and right, but said that if he interfered that Smith, who was commanding all these armed negroes, would blow everything up, and have a riot and bloodshed, &c., and for the sake of peace and order, &c., we had better not interfere with him. I therefore say that I made the request for a democrat to stand guard over the ballot-box with a member of the radical party, and that it was refused.

Question. To whom was such request made, and by whom refused?—Answer. Just before the election this matter was talked about between myself and several of the officials, (nearly all the whole radicals about the town were in office of some kind,) but none of them knew, it seemed, whose place it was to control such things, and failing in obtaining my request from others, I made the request to the deputy marshal, and obtained the reply as given before.

R. Q. MILLS.

A portion of the foregoing testimony was reduced to writing by the witness, R. Q. Mills, in my presence.

Sworn and subscribed to before me this 28th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

C. M. WINKLER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence: and how long have you resided there?—Answer. C. M. Winkler; fifty years old; reside in Corsicana, Navarro County, since 1848, with a short interruption; and a lawyer by profession.

Question. Where were you during the late congressional election? How was the registration and election conducted? State all facts in relation to same, and what is the relative strength of the two parties in Navarro County.—Answer. I was in Corsicana most of the time during

the election, and the registration preceding. The registration was commenced by H. B. Hurlock, as registrar. After he had proceeded with the registration one day and a part of another he was superseded by A. Hanson. After Hanson had been registering for some time I discovered that he was disregarding the registration made by Hurlock, and was issuing certificates of registration bearing the same numbers as those his predecessor had issued to other persons. I called Mr. Hanson's attention to the fact, and asked him to have it rectified. He expressed entire ignorance in reference to it. He told me that Irwin was to blame for it, or language to that effect, and he sent a policeman after Irwin, who returned without him. I then went to Irwin myself and told him I had discovered the trick they were playing in registration, and told him what it was. He seemed to think it a good joke. I told him that I was in earnest about it; that I believed it was intended to cut out the democratic votes that had been registered by Hurlock, and in the name of the democracy demanded it should be rectified. A consultation was then held as to the best way of getting out of the difficulty, which resulted in the then registrar, Hanson, causing printed notices to be sent out over his own signature as registrar, to the effect that the registration made by Hurlock would not be respected, and calling on them to register. As to the election, I do not consider it was a fair one, by any means. It was controlled in a great degree by armed men, under the command of one G. W. Smith, who during the election quartered in the second story of the court-house, under which the election was held. While the election was going on guards were placed entirely around the court-house, and the voters were marched up in single file to the window where the votes were received, passing between files of armed men on either side; and in my judgment this array of armed men was well calculated to overawe the timid, especially as the officer in command was known to be an active republican partisan. As far as I am informed, not only this armed force, but the managers of the election, were either active partisans or in harmony with the republican party. A short time before the election commenced, J. L. Hurlburt and myself, in the interest of the democratic party, called upon those whom we understood to be the managers of the election, and inquired of them if we would be permitted to select a democrat to be present and represent the democratic party; to which we received the reply that we would not—that that right was given to the managers of the election. We then asked the managers of the election if they would allow us to designate ten men, from whom they would make a selection; to which we received an affirmative reply. I afterwards handed them ten names, from whom they selected W. A. Lockhart, who was permitted to be present during the first and part of the second day, when he was dismissed and another put in his place, without the consent or concurrence of the democratic party, so far as I know; who was a very old man, defective in hearing and eyesight. I remonstrated frequently against this, but without effecting any change until the last day of the election, about the time the voting was closed, when I was informed that I would be permitted to be present at the counting of the votes. I then asked that some other one might be present—one to watch the tally, the other to watch the votes. This was refused. I was present at the counting of the vote, and so far as I know or believe they were correctly counted as they came from the box, but the number of votes counted did not tally with the poll-book. The number of votes counted was less than the number of names on the poll-book by twenty odd. As to guarding the ballot-box during the intervals between voting, the impression left upon my mind, as the result

of various interviews between persons managing the election and different members of the democratic party also, was that the ballot would be guarded by the police, and that we would not be allowed to interfere. During the election armed bodies were passing in and out of the town, for the purpose, as I understood it, of bringing negroes to vote during the election. I have mixed pretty freely with the people of this county, and during the last canvass visited several of the neighborhoods. During the last three years I have not estimated the democratic majority to be not less than 1,000, and at the last congressional I was confident the democratic majority would not be less than 1,000 votes. There was not so many votes polled as I expected, but at the close of the election my opinion was that we had at least a thousand majority in the box. The democratic party had no means of knowing whether the ballot-box was tampered with or not during the intervals of voting. That either the ballot-box was tampered with, or this military array induced a great many to vote differently from what they would have done, in my opinion. I heard frequent complaints during the election that a great many negroes were voting under age. According to my best judgment there was not exceeding one hundred white men that belonged to the republican party at the late congressional election, and believe there is at least three or four whites to one black in the county.

Cross-examined by contestee:

Question. Were any parties prevented from re-registering under Hanson?—Answer. I know of no one being refused re-registering by Hanson.

Question. Do you know, of your own knowledge, of any interference on the part of that armed police to intimidate or prevent any one voting?—Answer. I did. I heard Sergeant Lufkins say to a policeman, put him out, and if he don't go out shoot him. And saw them go along the line examining the votes of the colored voters; and if they had tickets that did not suit them, then they would give them others and tear the tickets they had taken away from them up.

Question. Was there any remonstrance on the part of the voters who had their tickets taken away from them?—A. I saw none; they seemed to be entirely passive.

Question. Were you present when W. A. Lockhart was rejected as a viewer at the polls?—A. I was not.

Question. Do you not know or have good reasons to believe that the cause of the removal of W. A. Lockhart was because of his interfering with persons who were coming to deposit their ballots?—Answer. My understanding of the reason was, because of his general acquaintance of the colored voters of the county, and objecting to those who being under age to voting; and I understand further the objection came from the negroes themselves.

Question. Were you there when the ballot-box was brought out, preparatory to the counting out of the votes?—Answer. I was.

Question. Did you examine the box carefully; and, if so, did it have any suspicious appearance, as though it might have been tampered with, or had been tampered with?—Answer. The box was a plain wooden box nailed together, with a hole cut in the top to receive the ballots. The hole was closed by a piece of paper stuck over it with mucilage. I did examine the box and saw no evidence of its having been opened since it had been last sealed up. From the construction of the box the lid might have been removed without interfering with the sealing over the hole of the box.

Question. Had there been a chisel or knife used to pry off the lid of the box, would you not have been likely to have seen some indications of that fact?—Answer. Most probably there would have been some indications, yet I saw none.

Question. Was the box slightly or strongly nailed together, and what size nails were used?—Answer. I did not examine to see how securely the box was nailed together; it was fastened by small nails, and when the lid was removed preparatory to the counting of the votes it was done with an old bowie knife or something of the kind.

Question. Was it nailed with many or few nails?—Answer. My impression is the lid was fastened on with six nails.

Question. Is Mr. Melton, who succeeded Lockhart as viewer at the polls, a man of fair, ordinary intelligence, and capable of attending to his own business transactions, and a respectable citizen in this community?—Answer. Mr. Melton is a respectable and good citizen, and fully as capable of attending to his own business affairs as men of his age ordinarily are. He is an old man, and both his hearing and his vision are considerably impaired.

Question. Did you not say immediately after the votes were counted on that occasion, that you saw nothing to indicate any unfairness, so far as receiving and counting of the votes was concerned?—Answer. So far as the count is concerned, I did say that I thought it was fairly done.

Question. Did you see any threats or any means used to intimidate or prevent parties voting at that election?—Answer. Nothing further than I stated in my direct examination.

Question. Has there not been a large ingress of men within the last year into the county, with whose political opinions you are not acquainted?—Answer. Within the last year there has been a good many that came into the county with whose political opinions I am not acquainted with; but this was not the case to any great extent at the time the election was held.

Question. Is it not reasonable to suppose that many voted for General Clark who were democrats, on account of his active exertions in Congress to procure a charter for the Texas Pacific Railroad, which would pass through our county?—Answer. I think not. Members of political parties are rarely ever influenced by considerations of that character, as far as my observation goes, and I know of none such in this instance.

C. M. WINKLER.

Sworn and subscribed to before me this 28th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

WILLIAM CROFT, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence; your profession; and how long have you resided in Texas?—Answer. William Croft; forty-five years old; Corsicana, Navarro County, Texas; a lawyer by profession. Have been in Texas since 1847; in Navarro County since December, 1849. Have always claimed this as my residence ever since up to this time, with the exception of a short time that I have resided at Houston; have never missed a court when it was held in this county from the time of my first arrival here to the present time.

Question. Where were you during the registration and the late congressional election?—Answer. I was in Corsicana.

Question. State how said election was conducted—peaceably, quietly, and fairly, or otherwise?—Answer. On the first morning of the election I was surprised to see an armed guard stationed around the court-house, like pickets, most of them colored men. About 10 o'clock I started to walk from my office on the corner of the square to the court-house, and was stopped by one of these guards, and was told that I could not go through the court-house without permission from Captain Smith. As I had no such permission I returned to my office, and after while walked around the guards up to the window where the voting was to take place, and was invited in politely by the judges and clerks inside. I remained a few moments, and saw they were unprepared for opening the polls, which they were fixing to do, and returned to my office. There was an immense long line of voters at this time, reaching up to the court-house, waiting for the polls to be opened, and guards standing on each side. I did not go up to the court-house any more during the four days of the election, exept when I took my place in line on the last day, for the purpose of casting my ballot. The guards, and judges, and registrar, so far as my knowledge extends, were all of the radical persuasion, and supporters of Clark: the democrats having no control over the management of affairs, so far as I could see, and everybody in the country seemed to be intimidated by these armed guards, more particularly as the citizens were not allowed to wear arms.

Question. From your knowledge of the people of the county and their political sentiments, what is your estimate of the strength of the two parties upon a fair count?—Answer. My judgment was that from a fair election and a fair count there should have been a thousand majority polled for Giddings, and I did not think that any radical management could make his majority less than 800.

Question. From your knowledge of the political sentiments of those who voted at the late congressional election, and the result, as ascertained by the count, have you reason to believe the ballot-box was tampered with?—Answer. From my knowledge of the voters voting at the election—and I frequently watched the line each day—my judgment was at the time that if everything was conducted fairly, if all the votes were put in the box and taken out fairly, that Giddings would have a majority of about 1,000, and if even there was a little fraud practiced, that his majority would be at least 800. The final result showed a majority of 19, and I have no idea how such a majority, or results, was arrived at without fraud somewhere. From my knowledge of the people of the county I do not believe that one hundred white radicals can be found in it, the large bulk of the white population being democratic. My judgment is, about three or four whites to one colored voter in this county.

Cross-examined by contestee:

Question. Did you see any efforts made by this armed police force toward intimidating voters, that you speak of?—Answer. I did not myself, except the fact of their being there was a terror to a great many. I heard several men say that they would not walk up in line between armed guards to vote; that they had not been raised that way and they did not intend to vote.

Question. Did you see any one obstructed from the right of going to deposit his ballot who chose to go and vote?—Answer. I did not. I was not close enough to the polls for any sufficient length of time to see any such obstructions, if any there was.

Question. Have you been credibly informed, and do you believe, that any one was prevented from voting at the said election?—Answer. I have no information on the subject.

Question. Did you see a democrat sitting in the room where they were receiving votes; and if so, who?—Answer. I saw William Melton sitting inside when I voted.

Question. Did he seem to have facilities afforded him whereby he could detect any fraudulent transactions that might be transpiring?—Answer. He was sitting inside with the judges and clerks. He is a very old man and a little hard of hearing, and cannot see as well or as quick as a younger man.

Question. Was not Mr. Melton sitting at the table and near to the window where they were receiving the votes at the time you saw him?—Answer. He was.

Question. Has not Mr. Melton within the last year been engaged in mercantile pursuits, and managing the business for himself?—Answer. He has been engaged in merchandising, but always in connection with others younger than himself, and think they did the principal part of the business.

Question. Was it not generally understood that General Clark was the earnest advocate of railroad-building in the State of Texas, particularly in Navarro County?—Answer. I do not know. I only know what my understanding was about it. Know but little of the understanding of others.

Question. Did you understand that General Clark was the earnest advocate of the Texas Pacific Railroad, which was to come through Navarro County, on the line of 32d degree?—Answer. General Clark told me in conversation that he was an advocate of the measure.

Question. Did you not also derive the same knowledge from the congressional proceedings at Washington?—Answer. I think so.

Question. Is it not reasonable to suppose that many democrats acting on that measure voted for Clark on that account?—Answer. I should think the supposition to be very unreasonable.

Question. Has there not been a large accession of population to Navarro County within the past year with whose political opinions you are not acquainted with?—Answer. There has been a very large accession to our population since the late congressional election, and there was some accession immediately before the election, but the large bulk of the new-comers before the election were democratic, and the most of them joined our democratic clubs before the election.

Question. What was the voting population of the county at the time of the election?—Answer. I think the voting strength of the county should have been about 3,000 at the time of the election.

Question. Do you know of the citizens having been disarmed previous to or during the time of the election?—Answer. There was a law against the wearing of deadly weapons, which the citizens generally complied with.

Question. Do you think that colored voters could have voted the republican ticket without danger of being thrown out of their habitations and losing employment, or otherwise ill-used for so voting?—Answer. I do.

WM. CROFT.

Sworn and subscribed to before me this 28th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

LOGAN GOULD, (colored,) a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. Logan Gould; I don't know my age; reside in Corsicana, Navarro County, Texas.

Question. Were you compelled to register and vote at the late congressional election; and, if so, by whom?—Answer. I was compelled to register and vote. A white man came to me and asked if I had ever voted, and I told him I had not; he then said to me, "Come on with me and I will make a man of you;" I went up then and registered, and intended to vote the next day, but was sick the next day, and did not vote until the last day or the day before the last of the election. When I went to register they asked me no questions, and I do not know my own age.

Cross-examined by contestee:

Question. Did you take an oath when you went to register?—Answer. I don't recollect.

Question. Do you know of any colored men who were forced to vote?—Answer. I do not.

Question. Have you received credible information, and do you believe from such information, that colored men have been discharged from farms and plantations by their employers for having voted the republican ticket at the late congressional election?

(Question objected to by contestant, and objection sustained by the commissioner.)

Question. Did you see any colored men that were forced to vote the republican ticket at the late election?—Answer. No, sir.

his
LOGAN + GOULD.
mark.

Sworn and subscribed to before me this 28th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

SAM. R. FROST, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided here?—Answer. Sam. R. Frost; twenty-five years old; reside in Corsicana, Navarro County, Texas, and have resided in Navarro County twenty-four years.

Question. From your knowledge of the political sentiments of this county, what was the relative strength of the two parties at the late congressional election?—Answer. From my knowledge of the political sentiments of the county, I have always thought and still think the county is largely democratic.

Question. Have you any means of ascertaining the votes that were cast for the respective candidates at the last election?—Answer. To some extent I have. About the time or just after the certificate was issued to Clark, the people, thinking they had been defrauded at the polls, requested me, after having advertised to the voters to meet at their several precincts an officer who was authorized to administer oaths. I went to three precincts, and parties who voted for Giddings came before me and made affidavit to that effect. I visited Dresden, Spring Hill, and Birdston, three little villages in the county, where a great

many of the voters who voted for Giddings were assembled, and, at their request, I, as notary public in and for Navarro County, administered to them each their oaths. All those who claimed to have voted for Giddings did not meet me on the days proposed; in fact, several have told me since that they still wished to make the affidavit that they voted for Giddings; but I stated generally to such that I thought it would amount to nothing, and consequently did not swear them. Several others, whom I know claimed to have voted for Giddings, who, at the time that officers were visiting the different precincts, were absent from their homes. I, however, administered the oath to seven hundred and fourteen parties who voted for Giddings. Samuel Wright, justice of the peace in and for Precinct No. 4, Navarro County, handed me the affidavits of seven persons who voted for Giddings, who had made their affidavits before him. James C. Key, justice of the peace in and for Precinct No. 5 of said county, handed me the affidavits of eight persons who therein stated they had cast their votes for D. C. Giddings. S. S. Coxzine, justice of the peace in and for Precinct No. 2 in and for said county, also a notary public, handed me the affidavits of ninety persons who swore before him that they had voted for D. C. Giddings at the congressional election. R. C. Beale, deputy district clerk in and for said county, handed me the affidavits of sixty-two persons who had sworn before him that they had voted for D. C. Giddings. The said A. H. Sherrill, justice of the peace, handed me, at another time, the affidavits of one hundred and sixteen persons who had sworn before him they had voted for D. C. Giddings. I am informed that John L. Miller has another list of forty or fifty persons who had made affidavits before him that they had voted for Giddings. By these figures, and my knowledge of the political sentiments of voters of the county, having been so long a citizen of the county, who did not meet me at the villages of their neighborhoods, I feel sure that quite a large majority of the voters of the county belong to the democratic party. Some parties, who were office-holders, county and city, have come to me and told me that they were suspected of belonging to the radical party, because they did not meet officers, as requested by the people, and make affidavit as for whom they voted; but such was not the case, but if they should thus record their votes they would soon lose their positions, since it was at the governor's pleasure they held their positions.

(The foregoing testimony was objected to by contestee. Objection overruled.)

Question. Was there any compulsion or force used to bring these parties before officers by whom the oath was administered?—Answer. There was none known to me.

Question. Did you receive a communication from the secretary of state relative to your action in this matter?—Answer. I did; which I attach hereto, and identify by writing my signature on the back of it.

DEPARTMENT OF STATE, AUSTIN, *December* 18, 1871.

SIR: This is to notify you that you have this day been removed from the office of notary public of Navarro County, for the reason that you were one of the parties who went round the country obtaining affidavits from parties as to whom they voted for, thereby practicing intimidation upon legal voters.

Very respectfully,

J. E. OLDRIGHT,
Acting Secretary of State.

SAM'L R. FROST, Esq.,
Corsicana, Texas.

Indorsed on the back: Sam. R. Frost.

Cross-examined by contestee:

Question. Did you not hear remarks made at those places where you met the voters, as above stated, that all who did not make the affidavit for Giddings would be regarded as of the radical party?—Answer. I heard some say that it looked rather suspicious in those who said they had voted for Giddings.

Question. Were you at Corsicana during the congressional election?—Answer. I was.

Question. Did you see any one prevented from voting as they saw proper during the election?—Answer. I cannot say that I *saw* any one prevented from voting, except that in one instance a negro man who had been in my employ for several months previous to the election, being asked by me if he wished to vote for a democrat, replied that he did; whereupon I handed him a ticket with D. C. Giddings's name on it. He immediately started from my office, which was situated directly in front of the polls, and I watched him to see if any of the police force would take his ticket from him. As he approached the polls, just within the beat of the police, I saw a policeman with a gun in his hand advance toward him; I could not hear the conversation which passed between the parties, but saw the negro deliver the ticket to the policeman and the policeman returned him a blue one, which was the color of paper on which the Clark tickets were printed that were given to the negroes generally. The negro afterward stated that he voted the blue ticket which the policeman had given him.

Question. Did the policeman use any force or intimidation to influence his vote?—Answer. I could not hear the conversation and do not know whether or not any threats were made by the policeman. If the negro was intimidated by the policeman, the only act that I saw as evidence of it was that the policeman approached him armed with gun and pistol. The policemen were all armed during the election.

Question. Do you know of any person who has discharged or threatened to discharge the colored tenants on their farms for having voted the republican ticket?—Answer. I do not.

SAM. R. FROST.

A portion of the foregoing evidence was reduced to writing by the witness, S. R. Frost, in my presence.

Sworn and subscribed to before me this 28th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. L. HALBERT, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in this county?—Answer. J. L. Halbert; thirty-nine years old; reside at Corsicana, Navarro County, and have resided there for fourteen years.

Question. Where were you during the late congressional election held in Navarro County? How was said election conducted, and to which political party did the officers and managers of the election belong?—Answer. In Corsicana. A cordon of policemen were stationed around the court-house where the election was being held, some forty or fifty steps from the court-house. Voters were required to advance to the polls in single file, under the supervision of the police. The officers, managers, and policemen, so far as I know, were members of the repub-

lican party. I do not believe it was fairly conducted, because while standing in the line awaiting my turn to vote I frequently saw policemen approach freedmen and take their tickets from them, examine them and return them. Every instance where I saw the tickets examined and returned they were blue tickets, which was the color of the Clark tickets.

Question. Do you know of any demand being made by the representatives of the democratic party to be represented on the guard of the ballot-box during the interval of the closing and opening of the polls?—Answer. As one of the friends of Colonel Giddings, I had several interviews with the judges of the election just previous to the election, the object of which was to obtain the permission of the judges of the election for one or more friends of Colonel Giddings to be present in the room with the ballot-box during the election, and to assist in keeping it inviolate until after the election was over. This permission was at first refused, but ultimately they consented that the names of ten moderate democrats might be submitted to them, out of which they themselves would select one who might be present at the election. This was done, and they selected William A. Lockhart out of the number.

Adjourned to meet at 9 o'clock a. m.

UNITED STATES COMMISSIONER'S OFFICE,
Corsicana, Navarro County.

Met, pursuant to adjournment, at 9 o'clock a. m., February 29, 1872. Present, D. G. Worrell, United States commissioner; D. C. Giddings, contestant; William Teal, attorney for contestee.

J. L. HALBERT, evidence continued:

Lockhart was permitted to be present one or two days of the election, after which I understood he was refused admittance to the room where the election was being held. The judges then substituted in his place Captain William Melton, a very old man, defective in hearing and sight, as I have been informed.

Question. Do you know in whose custody the ballot-box was during the intervals of the closing of the polls until the opening of the same the next morning?—Answer. I have heard, and it is generally understood, that N. Hanson was the custodian of the ballot-box during that time.

Question. From your knowledge of the political sentiments of the voters of this county, what is your estimate of the vote cast at the late congressional election in this county for the respective candidates?—Answer. At a low estimate three-fifths of all the votes cast would have been for Colonel Giddings, and I put it down to a very moderate figure.

Cross-examined by contestee:

Question. Did you canvass the county at the late congressional election? and state if you have canvassed it heretofore.—Answer. I did not canvass the county at the late canvass, but as a lawyer I mingle freely with the people, and formed my ideas of how they would vote by conversing with them.

Question. About what proportion of the voters of Navarro County told you how they were going to vote?—Answer. I cannot say what proportion told me individually how they were going to vote; but I arrived at my conclusion how the vote of the county would be cast, from general expression from citizens as to how they and their friends would vote.

Question. Is your office not in a room in the court-house, opposite the room where the voting was conducted?—Answer. It is.

Question. Were you passing in and out of your office during the time the election was being held?—Answer. The first day I was refused admittance through the line until I went and saw G. W. Smith, commander of the police, and got permission from him.

Question. Were you not passing in and out of your office during the balance of the time?—Answer. I was.

Question. Did you see anybody during that time intimidated or prevented from voting as they saw fit by the police?—Answer. There was such a number of armed men walking to and fro in the court-house, that I kept the door closed of my office generally, and could not see what was done at the polls; along the line of voters as they approached the polls, I could see armed policemen inspect the votes of the freedmen, as I have stated in my examination-in-chief.

Question. Knowing the existing temper of the people at that time, do you not believe that many negroes would have been discharged from their homes and employment, by democratic employers, had they voted the republican ticket?—Answer. I do not, nor do I know of a single instance of a megro being discharged for having voted the republican ticket.

Question. What is the legal requirement of the law in regard to the custodian of the ballot-box during the intervals, closing and opening of the polls?—Answer. Under the act of the legislature of Texas, approved August 15, 1870, the registrar of voters is made the custodian of the ballot-box between the closing of each day's voting and the opening of the polls the next.

Question. For aught you know, then, no one was prevented from voting freely at said election?—Answer. I saw no one forced to vote, and I saw no one prevented from voting who approached the polls in the line of voters in their turn.

Question. Was there not, previous to that election and during the year, a considerable accession to the voting population of the county, with whose political sentiments you were not acquainted?—Answer. Just preceding the election there was considerable accession to the population of Corsicana, occasioned by the approach of the railroad to this place. I do not profess to know the political sentiments of all who came into the town at that time.

Question. Is it not probable that many who heretofore had voted the democratic ticket voted for Clark for the reason that he was understood to be in Congress an active supporter of the railroad interests of this section of the State?—Answer. I do not think so. General Clark, in his speech made at this place during the general canvass, expressed himself favorable to our railroad interests, but I do not think he was supposed to possess either capacity or influence to benefit Texas in that particular.

J. L. HALBERT.

Sworn and subscribed to before me this 29th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

JOSEPH W. STEEL, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer.

Joseph Steel; twenty-two years old; reside in Corsicana, Navarro County, Texas.

Question. Where were you during the late congressional election and the registration immediately preceding, and in what capacity were you acting?—Answer. In Corsicana, and acting as special police during that time.

Question. Do you know who had charge of the ballot-box during the recess of the closing of the polls until the opening of the polls the next morning?—Answer. I do not know who had charge on the first night, but on the second night I was stationed at the door of the room, as guard, in which the ballot-box was placed, and instructed to allow no one to enter the room until the managers of the election should return. Between six and seven o'clock Major Smith, commander of the police, and Major Hanson, the registrar, came and relieved me, went into the room where the ballot-box was, and locked the door. Mr. C. A. Behm, a policeman who was on guard with me, was also relieved at the same time. We went to our supper, and afterward returned and slept in the court-room, above the room where the ballot-box was at that time. I don't know whether any guards were placed at the door of the room in which the ballot-box was, or not, the balance of the night.

Question. Do you know whether registration was kept open during election or not; whether colored men were registered during the election?—Answer. It was. I know that some two or three colored men were registered; I saw them myself.

Question. Do you know of any democratic tickets being taken away from colored men, and Clark tickets being given to them in return by the police? State all you know in relation thereto.—Answer. I did. I saw several democratic tickets taken from the colored men by the police, and Clark tickets given them in return, which were blue tickets. I saw Mr. Irwin, who was receiving tickets at the window, take a democratic ticket and tear it up; the man called for another, folded it, and put it in the box himself.

Question. Do you know of the police being sent into the country to bring in colored men to register and vote?—Answer. I do; they were instructed to make them come in and vote.

Cross-examined by contestee:

Question. How many negroes did you see registered during the election?—Answer. Some two or three.

Question. Might that not have been a transfer of a registration certificate from some other county to this?—Answer. I don't know.

Question. Were those tickets demanded of those persons offering to vote?—Answer. The persons receiving asked to look at their tickets, and would tell them they were fools and selling themselves back into bondage again.

Question. Did the police compel the negroes by threats to come in and vote?—Answer. I don't know.

Question. Did you see any one during the election prevented from voting at that election, the democratic ticket, by threats or intimidation?—Answer. I can't say that I saw it.

Question. Were you about the voting place and the lines of the voters during the time of the election?—Answer. I was.

Question. Did you know of any one prevented from voting the republican ticket by threats or conduct calculated to intimidate?—Answer. I did not.

Question. Did you see anything in the proceedings that would lead

you to suppose that the ballot-box had been tampered with, or that the election was dishonestly conducted?—Answer. I did not.

JOSEPH STEEL.

Sworn and subscribed to before me this 29th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

H. P. WALKER, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence, and how long have you resided in the county?—Answer. H. P. Walker; forty-two years old; reside in Corsicana, Navarro County, for eighteen years.

Question. Where were you during the late congressional election?—Answer. I was in Corsicana; I was not about the polls a great deal, only when I voted myself, and know of one negro voting who was under age.

Question. Do you know of any persons voting, who were not legally entitled to vote?—Answer. I only know of one instance, that of a negro boy who was under twenty-one years of age.

Question. Were white men allowed to be near enough to the polls to challenge any persons who were not legally entitled to vote?—Answer. I would say not; there was very strict discipline kept there, and as soon as I voted was ordered to retire.

Cross-examined by contestee:

Question. Did you challenge that illegal voter?—Answer. I did not challenge his vote for the reason that the police would not allow me to get near enough to speak to him.

Question. How near were you to the negro when he voted?—Answer. Some twenty-five to fifty yards.

Question. Was it not generally understood by the negroes that if they voted the republican ticket they would be forced from their farms and plantations by the democratic employers?—Answer. It was not so understood.

H. P. WALKER.

Sworn and subscribed to before me this 29th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

G. N. BEAUMONT, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence? Answer. G. N. Beaumont; forty years old; reside in Corsicana, Navarro County, Texas.

Question. Where were you during the late congressional election in Navarro County?—Answer. In Corsicana, Navarro County.

Question. State the political party to which the officers of the election and the police belonged, and any facts as to the conducting of the election that came within your knowledge.—Answer. The officers of the election and police belonged to the radical party, or to the opposition party, to the democratic party, and was conducted in a manner that excluded from the polls, in the vicinity of the ballot-box, any and all persons, except those belonging to their own party, who seemed to have

access at any and all times by a guard that was stationed fully twenty yards from all sides of the court-house, the said guard being all armed, and those approaching the polls for the purpose of voting had to pass between two files of armed guards, in order to get to the place where the vote was deposited. I saw said guard take tickets from several parties, and tear them up. (White tickets were generally the democratic ticket, while the Clark or republican ticket was blue.) In one instance I saw a ticket, with Colonel Giddings's name on it, taken from the hands of a voter, and destroyed, and a Clark ticket forced upon the voter. I went to Mr. Nelms, the sheriff, who was one of the judges of the election, and requested that we should have a representative to assist in guarding the box at night, which amounted to the same as a refusal, saying it would be attended to.

Question. Do you know of parties voting who were not entitled to vote?—Answer. Yes; Holdener, Nick Burkley, (colored,) voted under age; Louis Feilder, (colored,) voted under age; Dick Mackey, (colored,) voted under age; Jim Nelson, jr., (colored,) voted under age; Cy. Harlan, (colored,) voted under age; Sam. Banks, (colored,) voted under age; Jake Terrell, (colored,) voted under age; Daniel Storey, (colored,) voted under age; Mason Davis, (colored,) voted under age; Anthony Johnson, (colored,) Anthony Williams, (colored,) voted under age. Bill Wilson, a colored man, was visited by the police and threatened with his life if he did not come to the polls and vote for Clark, which he did. Jack Neighbors, (colored,) voted under age; Nathaniel Harle, (colored,) registered and voted on the 5th day of October, 1871; his registration certificate antedated the 12th or 13th of September, 1871. Rinald Jackson, (colored,) registered and voted on the last day. Doran, who did not live in this district, voted. All of these voted the Clark ticket, and came under my personal observation during the third or fourth day of the election.

Question. Do you know in whose custody the ballot-box was during the recess after the closing the polls?—Answer. I don't know in whose custody the box was during the recesses, but on the evening of the last day after the polls were closed and the judges had left, a guard was stationed at the door of the room in which the ballot-box had been left. I saw Major Smith, the commander of the police force, and another man approach the door, and, after some conversation with the guard, go into the room where the ballot-box was and shut the door. How long they remained I cannot say. I remained in sight of the door for a half an hour afterward, and they did not come out in that time.

Question. From your knowledge of the political sentiments of the people voting at that election, what is your estimate of the votes polled for the respective candidates?—Answer. From my knowledge of the political sentiments of those that voted, allowing all the colored men to vote for Clark, together with the doubtful white men for Clark, my estimate is that Clark received about 730 votes, and Colonel Giddings about 1,283 votes.

Cross-examined by contestee:

Question. Did you see any persons prevented from gaining access to the polls and voting?—Answer. Yes; I saw a Mr. Meyer excluded.

Question. Had Mr. Meyer his certificate transferred to this county to be entitled to vote?—Answer. No; it was not transferred. I saw another party that was allowed to vote who had been registered in another county, and his certificate had not been transferred.

Question. How do you know that fact?—Answer. By seeing his certificate.

Question. Did you see tickets taken from persons against their will, and others substituted in their stead?—Answer. Yes.

Question. Specify an individual that was treated in that way?—Answer. Henry Thompson had his ticket taken away from him, but was afterward allowed to vote.

Question. You have specified certain individuals who voted under age at that election. Do you know, of your own knowledge, they were under age?—Answer. Yes; they were boys, and very young boys, and judge from their appearance they were under age.

Question. Who threatened to kill Bill Wilson, in order to compel him to vote?—Answer. John Thompson and Henry Jackson, policemen.

Question. At the time Smith went into the room where the voting had been done, do you know that the registrar was not in that room in charge of the poll-box?—Answer. I think the registrar was not in there; just previously had seen all the judges of the election except one go across the street from the court-house.

Question. What means had you used to obtain the political sentiments of Navarro County at that election?—Answer. From our political meetings, different democratic committees throughout the county, and from my own personal knowledge, and the sentiments of the citizens of the county.

Question. Were you at that time acquainted with the political sentiments of a majority of the people of Navarro County?—Answer. Yes.

Question. How long had you been a resident of Navarro County previous to that election?—Answer. About three months, and was on active political duty during that time.

Question. With which political party were you acting?—Answer. With the democratic.

G. N. BEAUMONT.

Sworn and subscribed to before me this 29th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

J. M. THURMOND, a witness in behalf of contestant, being duly sworn, says:

Question. What is your name, age, and place of residence?—Answer. J. M. Thurmond; thirty-six years; reside in Corsicana, Navarro County, Texas.

Question. Where were you during the days of the late congressional election?—Answer. The first and last day of the election I was at Calvert, Robertson County, and the two intervening days at Groesbeck, Limestone County.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidates of their choice?—Answer. I do not.

Question. Do you know of any armed bodies of men in opposition to the State and county authorities in Limestone County during that election?—Answer. I do not, unless it was the acts of parties claiming to be policemen, and recognized as such by Judge Oliver, who signed himself as judge of his district and chief of police.

Question. Was there such a state of affairs in Limestone County as would justify martial law?

(Question objected to by contestee as being irrelevant. Objection overruled.)

Answer. There was not, nor any possible excuse for it. I was invited by a committee from Groesbeck, composed of both parties, of which Colonel Mitchell was chairman, with the republican citizens of Calvert's request. I went to Groesbeck to see the state of affairs, and reported by telegraph to Senator W. Flanagan, B. Rush Plumbly, George T. Haswell, members of the house of representatives, that martial law was unnecessary, unwise, unjust, impolitic, and no fair-minded or thinking man of any party would indorse it.

Question. What position did Judge J. W. Oliver occupy in relation to the late election?

(Question objected to by contestee as being irrelevant. Objection overruled.)

Answer. He signed himself as judge of the thirty-third judicial district, and chief of police of the same, and was an active supporter of Clark.

Question. From conversations with Oliver and other republican supporters of Clark, do you know the object of placing Limestone County under martial law?

(Question objected to by contestee as irrelevant. Objection overruled.)

Answer. The local republicans, without exception, unless those officers who feared their removal by Oliver, were opposed to martial law. I had several conversations with Judge Oliver upon the subject, representing the citizens and the community generally. He stated to me individually, and to others in my presence, that there was no necessity for martial law, and appealed to God to bear him witness that he would use his influence against it, at the time looking up towards the heavens. In a subsequent conversation with him, he stated that he had changed his mind somewhat. I entreated him to reconsider the subject, and told him he was committing a fatal blunder, not only as a judge but as a citizen. I then stated to him that if any wrongs had been done it was done by parties under the command of the sheriff and mayor, both appointed by his recommendation, and was done under the color of legal authority. He then appealed to me to stand by him in the matter. I answered him emphatically that I could not do it. He said he had determined upon his course, and intended to make a precedent of Limestone County. I stated to him I was representing my friends of both parties in the interest of peace, and I should be compelled to notify them of his change of purpose. I proceeded immediately to Colonel Mitchell and other prominent men, to whom Judge Oliver had made the same promise, and informed them of Judge Oliver's purpose, that he intended to have martial law.

Question. Was it not generally known that the democratic vote was largely in the ascendant in Limestone County?—Answer. It was; upon a full vote of both parties it was about two democrats to one republican.

Question. Do you know that the excitement caused by the colored police resisting the arrest of parties charged with the killing of Applewhite was used as a pretext for throwing the vote of the county out or defeating the election in said county?

(Question objected to by contestee as irrelevant. Objection overruled.)

Answer. It was used by those officers who were subject to be removed by Oliver, and by some others, the judges of the election, as a pretext. I heard them say it was a good thing for Clark that it occurred, as the votes in that county would not be counted. Judge Oliver stated that

the difficulty having occurred it would result in a benefit to the republican party or to General Clark.

Question. Do you know of Oliver or any of the officers of the election telling colored men not to go to the polls to vote?—Answer. I heard republicans say to colored men and others not to go to the election, as it would amount to nothing, or that the vote would be thrown out, or something to that effect.

Question. With which political party did you affiliate in said election?—Answer. With the republican party, and voted for Clark.

Question. Was Clark the choice of the republicans at the nomination, and in what manner did he obtain the nomination?

(Question objected to by contestee as being irrelevant. Objection overruled.)

Answer. He would not have been the choice of the republican party had it not been for the influence of the State police, Governor Davis, and other officers who held their appointment under him, and the bitter feeling which existed against his competitor and his friends for the nomination.

Question. Did you hear Governor Davis or any prominent republicans say that Clark would get the certificate whether elected or not?

(Question objected to by contestee as being irrelevant. Objection overruled.)

Answer. It was frequently spoken of, that Clark would get his certificate, and a prominent republican, in offering to wager on the election, would offer to bet that Clark would get his certificate, but would not bet on the vote. I can remember of but one distinctly, but have heard others, but cannot call their names. One Gardiner, a member of the legislature from Brazos County, stated that Giddings might get the most votes, but Clark would get the certificate. I never heard Governor Davis make any such remark.

Cross-examined by contestee:

Question. How long have you been a resident of the State of Texas?—Answer. Between three and four years.

Question. Had you not been an office-holder by appointment under Governor Davis?—Answer. Yes.

Question. Had you not been removed from office peremptorily by Governor Davis previous to the last election?—Answer. Governor Davis accepted a pretended resignation which was given by me to Senator Hall for the purpose of being transferred to the Dallas district as district judge, and after I learned that it would probably be used for partisan and ulterior purposes I revoked it prior to his acceptance some ten days, and had the revocation spread upon the journals of the State senate, and a duplicate copy delivered to Governor Davis.

Question. Was the feeling existing among the democrats in Limestone County and in other counties in which you are acquainted such that republicans, white and colored, could have voted for their candidate without personal danger, or a reasonable fear of being discountenanced or discharged from their employment or driven away from their homes in consequence of so voting?—Answer. There was not, with this exception, any intelligent man who was known to indorse the incendiary speeches and unjustifiable force of Judge Oliver, was held justly in contempt by all gentlemen, whether they were republicans or democrats.

Question. Did you not hear, during that canvass, language calculated to intimidate or prevent persons from voting at that election?—Answer. There might have been remarks made that might have induced a timid

man from voting or taking any active part in the election, but don't know of any instance where it had that effect. I am compelled to say, with regret, that the canvass was conducted with more fairness upon the part of the democrats than by such extreme men as Oliver and others like him.

Question. What was the nature of these incendiary speeches that you refer to above?—Answer. I heard Judge Oliver say, in addressing the colored police who were present in the audience, and armed with Henry rifles, "If you undertake to arrest a white man and he resists you, shoot him on the spot." I was called for by the audience, and replied to Oliver's speech, and begged them not to do it, stating that Judge Oliver was wrong, a new convert to the republican party, and, like all new converts, shouted louder than older Christians. This occurred a few days before the election.

Recalled by contestant:

Question. Was there during the late canvass, or is there now, any hard feeling existing between you and Governor Davis on account of the removal from office referred to?—Answer. On the contrary, when Governor Davis arrived at Calvert, where I then resided, I assisted the mayor in his reception, presided over the republican meeting, and introduced him to the audience, at which time and place Judge J. G. Tracy, chairman of the republican state committee, stated publicly in the presence of the governor that my removal was caused by the treachery, falsehoods, and lies of Senator Hall, which deceived the governor, and for these reasons I blamed Hall alone, and not the governor, at the same time regarding that the governor had acted unconstitutionally without the authority of law.

J. M. THURMOND.

Sworn and subscribed to before me this 29th day of February, A. D. 1872.

D. G. WORRELL,
United States Commissioner, Western District Texas.

Adjourned on the 29th of February, A. D. 1872, *sine die.*

UNITED STATES OF AMERICA,
Western District of Texas:

I, D. G. Worrell, a United States commissioner for the western district of Texas, do hereby certify that the testimony in the foregoing pages, hereto attached, was taken and reduced to writing by me, on the 27th, 28th, and 29th days of February, A. D. 1872, (the testimony, or a portion of it, of S. R. Frost and R. Q. Mills was reduced to writing by the witnesses themselves, in my presence,) at office in the city of Corsicana, Navarro County, Texas; that the examination on the part of contestant, D. C. Giddings, was conducted by himself; on the part of W. T. Clark by Wm. Teal, esq., attorney for contestee.

Given under my hand and official signature, at office in Corsicana, Navarro County, this 29th day of February, 1872.

D. G. WORRELL,.
United States Commissioner, Western District Texas.

Hon. D. C. GIDDINGS,
To D. G. WORRELL, *United States Commissioner,*
Western District Texas, DR.

To taking and returning depositions of witnesses in Washington, Brazos, Robertson, Milam, Burleson, Walker, Grimes, Limestone, Freestone, Hill, Madison, and Navarro counties, Texas, in the contested-election case of D. C. Giddings *vs.* W. T. Clark:

For 96,650 words, at $2 50 per 1,000	$240 62
To mileage, and issuing 112 subpœnas at 25 cents	73 00
	313 62

United States deputy marshal's fees:

Summoning 108 witnesses, at 50 cents each	$54 00
Mileage on same	564 20
Attendance on court, at $2 per day, for 22 days	44 00
	662 20
Witnesses' fees	$185 00
Mileage for same	210 00
	395 00

Received payment of D. C. Giddings for the above amounts.

D. G. WORRELL,
United States Commissioner, Western District Texas.

No. 17.—*Depositions taken in Harris County.*

D. C. GIDDINGS
vs.
W. T. CLARK.

In the matter of contested election from third congressional district of Texas, now pending before the Congress of the United States, wherein D. C. Giddings is contestant and W. T. Clark contestee, it is agreed that contestant shall commence taking testimony in the city of Houston, Harris County, on the 4th day of March next, before any officer of State of Texas qualified to take depositions, or United States commissioner; and he may examine all such witnesses as may appear, hereby waiving time and notice and names of witnesses; and it is further agreed that contestant and contestee may proceed to take depositions in said cause in the county of Harris, from day to day, without further notice.

WM. H. CLARK,
Attorney for Contestant.
A. C. ROGERS,
Attorney for Contestee.

FEBRUARY 23, 1872.

HOUSTON, TEXAS, *February* 28, 1872.

To A. C. ROGERS, *Attorney, &c.:*

I give you notice that under the agreement for taking depositions in the county of Harris, commencing on the 4th March, 1872, in the contested election case of Giddings *vs.* Clark, before the Congress of the United States, the contestant proposes to examine the following witnesses, viz: George Goldthwaite, Wm. P. Hamblin, J. W. Henderson, Samuel Asbe, Wm. H. Crank, Julius Albert, Geo. R. Healy, J. E. Carnes, Jno. E. Garey, Robert Lockart, Dr. R. W. Lunday, Wm. R. Baker, Dr. E. L. Mossee, H. G. Parnell, Dr. Alva Connell, Wm. Cooper, Joseph Smallwood, Dr. N. P. Dolen, R. D. Westcott, Alex. Eischson, W. C. Wagley, T. U. Lublock, Henry Sheiffries, Judge Jas. Masterson, James Martien, Nelson Boxley, N. P. Turner, Henry Wenar, John House, M. H. Levy, George Washington, Reed Parnell, G. A. Daly, M. E. Davis, Mr. W. Cameron, Jno. H. Morly. Be pleased to furnish me a list of the witnesses you propose to examine for contestee, with as little delay as possible.

Very respectfully,

WM. H. CRANK,
Attorney for D. C. Giddings, Contestant.

UNITED STATES OF AMERICA,
Eastern District of Texas, ss:

The President of the United States to the marshal of the United States, eastern district of Texas, or any of his deputies:

You are hereby ordered to summon Theodore Kosse and J. A. Cameron, if to be found in your district, to be and appear before me, Leslie Thompson, jr., United States commissioner, eastern district Texas, at my office, grand jury room, in the court-house of the city of Houston, forthwith, then and there to answer certain interrogatories to them to be propounded in the contested election case of D. C. Giddings *vs.* W. T. Clark. Herein fail not, and due return make of this writ according to law.

Witness Leslie Thompson, jr., United States commissioner, eastern district of Texas, and his seal of office, this 6th day of March, A. D. 1872.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Received and executed March 5, 1872, by serving the within-named Cameron; Kosse not found.

A. B. HALL,
Deputy United States Marshal, Eastern District Texas.

UNITED STATES OF AMERICA,
Eastern District of Texas, ss:

The President of the United States to the marshal of the United States eastern district of Texas, or any of his deputies:

You are hereby ordered to summon Judge James Masterson and John E. Garey, if to be found in your district, to be and appear before me, Leslie Thompson, jr., United States commissioner, eastern district of Texas, at my office, grand jury room, court-house, city of Houston, in-

stanter, then and there to answer certain interrogatories to them to be propounded in the contested election case of D. C. Giddings *vs.* W. T. Clark. Herein fail not, and due return make of this writ according to law.

Witness Leslie Thompson, jr., United States commissioner, eastern district of Texas, and his seal of office, this 5th day of March, A. D. 1872.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Received and executed March 5, 1872, by serving both the within-named witnesses.

A. B. HALL,
Deputy United States Marshal, Eastern District Texas.

Cit., $1.

Notice served on Rogers, attorney for contestee, referred to in the certificate.

HOUSTON, *March* 6, 1872.

SIR: You having declined to take testimony for contestee in the contested election case of Giddings *vs.* W. T. Clark, in accordance with agreement between the parties, executed on the 23d day of February, 1872, in which time and notice is waived, you are hereby notified that said agreement expires this day, and that your right to take testimony in Houston, Harris County, under said agreement, will not be recognized, and that notice must be given in accordance with law.

Respectfully, yours,

D. C. GIDDINGS.

A. C. ROGERS, Esq.,
Attorney for W. T. Clark, Houston.

UNITED STATES OF AMERICA,
Eastern District of Texas, ss:

I, William H. Crank, do hereby swear that on this 6th day of March, 1872, I served on A. C. Rogers, esq., counsel for W. T. Clark, a true copy of the within notice, at 4 o'clock p. m., in the city of Houston, Texas; and that at the time of such service he, the said A. C. Rogers, assured and promised me that he would give notice of the time of taking testimony for W. T. Clark in Harris County, Texas, in the said contested election case of Giddings *vs.* Clark.

WM. H. CRANK.

Subscribed and sworn to before me this 6th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

OFFICE OF UNITED STATES COMMISSIONER,
Eastern District of Texas, Houston, March 4, 1872.

Pursuant to application, notice, and agreement in the matter of the contested election from third congressional district of Texas, wherein D. C. Giddings is contestant, and W. T. Clark is contestee, commission met in the court-house of Harris County, Texas, in the city of Houston, in said State and county, to take the evidence in behalf of contestant. Present, Leslie Thompson, jr., United States commissioner, eastern district of Texas, D. C. Giddings, contestant, and A. C. Rogers, attorney for W. T.

Clark, contestee. The following-named witnesses were introduced and sworn, and made answers to the several interrogatories to them propounded, as follows:

GEORGE GOLDTHWAITE, being duly sworn, answers:

Question. What is your name, age, profession, and residence?—Answer. My name is George Goldthwaite. My age is forty-two. I reside in Houston, Harris County, Texas, and have resided there eighteen years. My profession is that of a lawyer.

Question. Where were you during the late congressional election, and during the registration immediately preceding the same?—Answer. In the city of Houston, county of Harris, State of Texas.

Question. State all facts within your knowledge showing the manner in which said election and registration were conducted; whether or not the same was in the interest of either party, and which party; the political party to which the officers and managers of election and registration belonged, and the police in attendance.—Answer. The registration preceding the election was under the management of one William H. Allen, a partisan of the radical party of the State of Texas. The registrar sat in the sheriff's office at the court-house with closed doors. The parties proposing to register went in at one door and came out at the other. It was evidently the determination of the registrar that his proceedings should be conducted in secret, and that no person should be present except the party making application for registration. I was present upon one occasion, during registration, when a party, whose name I do not remember, was ordered away from a window looking into the registration room. I saw nothing as it occurred in the room where the registration was conducted for the reasons as stated. The election and registration were both in the interest of the radical party, the officers of registration being appointed exclusively from that party. The officers of the election and the police in attendance were also, so far as I am informed and believe, were all from that party, to wit, the extreme radical party. Early on the morning of the election I went to the court-house, where I found a large crowd assembled at the door where the voters were depositing the ballots. I saw the disorder and confusion prevailing, and suggested to Mr. Hall, the sheriff of Harris County, the propriety of forming a double line of voters, that they might approach the ballot-box in order, and vote in the order in which they presented themselves in line. I assisted the sheriff in forming the line, and from that time the election was conducted in order and with propriety. The line was frequently a hundred yards long. A number of colored policemen were in attendance. Their only duty seemed to be to herd the colored voters, and see that they deposited the radical ticket. More than once I saw these policemen examine the voters' tickets and change them to suit their pleasure.

(The attorney for contestee, A. C. Rogers, esq., here objected to the question last propounded, as being irrelevant to any issue presented by the pleadings; and to the answer, because irresponsive to the question propounded.)

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None whatever; but, on the contrary, the people during the canvass were outraged by what they conceived to be the illegal orders of the governor in relation to the election, and there was a universal determination on the part of the people that the radical party should have no cause to

complain of any fraud, intimidation, violence, or any semblance thereof. Every man believed that such complaints would be made, and were determined that they should be without foundation. The election orders of the governor were obeyed to the letter.

Question. Do you know of any violence or intimidation practiced toward any of the officers of registration or election, whereby they were prevented from discharging their duties?—Answer. None whatever; nor was there any disposition on the part of the people to do so.

Question. Have you seen the certified copy of report made by the judges of election to the governor, in which yourself and others are charged with hanging about the polls and intimidating voters? State the facts in relation to said charge.

(Counsel of contestee here objected to the question, on the ground of irrelevancy to any issue presented by the pleadings.)

Answer. The paper referred to is now before me; I have seen it before. I know all the parties named personally; saw nothing of the kind. I believe the parties named incapable of such conduct as is attributed to them, and so far as the statement relates to me, it is false in every particular, and the men who make it are infamous liars.

Question. Please examine the printed copies here shown you, and say whether or not they are the same referred to by you in your previous answer, and identify the same by writing your name on the back thereof, and attach the same to your answer?—Answer. They are the same, and I have identified the same by writing my name on the back thereof, and I attach the same to this my answer.

Cross-examination by counsel for contestant:

Question. Do you know of any other persons besides the registrar being in the registrar's office during registration? If yea, then state who they were.—Answer. I think there were one or two other parties, my impression is that they were policemen; they were colored men, one at each door; as the door opened once, I think I saw Mr. Henry Weinar in the room. I had business once in the sheriff's office, which was the only time I entered during the registration, for the reason that the doors were kept closed.

Question. How long did the registration of voters continue; and did not the sheriff attend to his usual business in his office during the registration?—Answer. The sheriff occupies two rooms. I do not know whether the sheriff attended to his usual business during the time of registration. I stated that I desired to see the sheriff on business, and was admitted. The registration continued illegally until the election was over. I state this from the fact that I was at the polls on the first day of the election, and saw votes refused because they bore higher numbers than were to be found on the list which had been delivered by the registrar to the officers of election. On subsequent days of the election, voters who held certificates of registration which bore still higher numbers were allowed to vote. From these facts I believe that Mr. Allen, the registrar, was registering voters during the whole time of election.

Question. Do you know if any votes bearing the name of D. C. Giddings were at any time fraudulently taken out of the ballot-boxes, and votes bearing the name of W. T. Clark put in their places, and counted by the judges of election in making their returns of said election?—Answer. I was not in the election-room at any time during the conduct of the election, and of course I cannot answer this question of my own knowledge.

Question. Did you see any policeman, or any other person, change the vote of any voter, against his will, before said voter had cast his vote? If yea, state who so acted.—Answer. The policemen in attendance at the polls were selected as men of influence among their color; very few of them I knew. I saw a policeman demanding of a voter to see his ticket. I saw the ticket taken out of the voter's hand and another placed in it, whether against the voter's will or not I cannot say. I neither knew voter nor policeman, for I did not recognize as many as fifty out of the entire number of colored voters voting. I saw one other instance of the same character, I recognized none of the parties.

Question. Do you know whether the managers of the election were arrested during the election by the authority of any court; if so, by what authority?—Answer. I know that some of the managers of election were arrested during the election, on the evening of the third day of the election, after the closing of the polls. They were arrested by virtue of a bench-warrant issued by Hon. James Masterson, judge of district court, nineteenth judicial district, State of Texas. I was present when the prisoners were carried before his honor. I heard his honor state that he had ordered the arrest not to be made until after the closing of the polls. I heard him discharge the prisoners from custody until the Monday following the election, in order, as he stated to the prisoners, that their duties as managers of the election might not be interfered with. On the Monday following they were taken before his honor, and waived an examination, and entered into a bond for their appearance.

Question. Do you know if the judges of election have been called on to answer under the bond given?—Answer. I do not know.

Question. Do you not know that the bench-warrant referred to in your former answer was presented to the judges of election before the polls were closed, by one James Martin, of Harris County, and in consequence thereof, were not the polls closed immediately?—Answer. The exact hour I do not know. It was late in the evening; the arrest was not made until after the election hour. I was not at the polls, but on the opposite side of the street. I saw the prisoners when they were being carried to the judge's office. I followed them to the judge's office, and there heard what I have before stated.

Question. Do you know in whose hands Judge Masterson placed the bench-warrant for service?—Answer. I do not know. I know that some inquiries were being made for an officer, as the sheriff was, as I understood at the time, in some way implicated in the charge.

Question. Did you hear any democratic speaker advise resistance to the governor's election order, or advise the democratic party to go to the polls and camp around them?—Answer. I did not. On the contrary, as I have before said, the people felt outraged at said orders, and there was a firm determination on the part of the people that the radical party should have no foundation whatever for any charges of any disorderly conduct of any kind, which they believed was the settled determination of the radical party to make against them.

GEO. GOLDTHWAITE.

Subscribed and sworn to before me this 4th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Printed copies of orders, &c., referred to and made part of Goldthwaite's testimony.

[Circular.]

HEADQUARTERS STATE OF TEXAS,
OFFICE OF ADJUTANT GENERAL AND CHIEF OF POLICE,
Austin, Texas, September 6, 1871.

I. The insignia of special policemen, and of the State policemen who are not furnished with the regular badge, will be a blue scarf or ribbon, worn over the left shoulder and secured on the right hip. Policemen will provide themselves with a scarf, as indicated, (of any material,) and wear it at all times when on duty.

II. State police officers, commanding sub-police districts, will detail in each county under their jurisdiction—where an assignment has not been made from this office—one State policeman or special policeman to take charge of the special police of the county. The officer so detailed will report for duty to the registrar and judges of election of the county for which he is detailed, and will rigidly carry out the instructions contained in circulars and orders from the governor and from this office concerning registration and election.

III. In counties where no policemen report for duty, as provided in Paragraph II of this circular, the registrar will select one special policeman and detail him for duty in charge of the special police of the county.

JAMES DAVIDSON,
Adjutant General and Chief of Police, State of Texas.

Indorsed: "George Goldthwaite, Leslie Thompson, jr., United States commissioner eastern district of Texas."

Instructions to the officers of election.

GOVERNOR'S OFFICE,
Austin, Texas, September 6, 1871.

As a further precaution toward securing a fair, free, and peaceable election at the canvass commencing on the 3d day of October next, the following instructions for carrying on the same are issued to the registrar and judges of election in the several counties:

1. The registrar and judges of election are hereby instructed to report to the governor all violations of the "circular" issued by the governor, dated August 9, 1871, and providing regulations to the end that there may be no disturbance or intimidation at the registry of voters, and about the polls at the coming election. If any of the regulations or orders in that "circular" are disregarded, or if the authorities and police, or military appointed to enforce the said "circular," are prevented therefrom by lawless combinations too strong to be suppressed by the said authorities, the registrar and judges of election are instructed to report to the governor and secretary of state the number of voters who have thereby been prevented from the free exercise of the right to vote, and the names of persons so prevented, as nearly as they can be ascertained; also the names of the candidate or candidates for whom such persons would probably have voted, had the election been allowed to be conducted in the manner required in said circular. The registrar and judges of election are also instructed to report to the governor the names of the persons who have violated the regulations provided in that circular, so that such persons may be arrested and held for punishment under the laws of the United States and of this State, provided for the securing of free elections.

2. As a further measure to secure fairness at said election, the judges of election are directed, previous to the opening of the polls, to select one well known and respectable citizen of each political party, who shall be permitted to be present in the room where the election is going on, and remain during its entire progress and during the counting of the votes. These citizens shall also be permitted to examine the seals placed on the ballot-box at the close of each day as provided by section 32 of the act entitled "An act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box," approved August 15, 1870; and also again to inspect the same when reteurned the following morning to the judges of election. But further than as above specified, said citizens are not in any manner to be permitted to interfere in the election or in the matter of receiving and counting the ballots.

3. The attention of registrars is called to the circular from the office of the adjutant general, State of Texas, dated August 1, 1871, where it is provided that in case no officer of the State police or special police is put in charge of the special police by order from Austin previous to the election, then the special police are to be under the "supervision and orders of the registrar." In such case the registrar is specially charged with enforcing the regulations of the above-mentioned "circular" of August 9, from the governor. He will, if a sufficient number of special policemen have not been appointed, select others, not to exceed twenty good men in all, who will be sworn to act as special policemen during the registration and election. The names of persons so selected will

be sent to the governor, with a statemet of the number of days served by each. If an emergency should arise demanding a stronger force than is at hand, of either State or special police, the registrar is authorized to call upon the nearest officer in command of State guard (or of militia in the absence of State guard) for detail of sufficient force to secure the enforcement of the regulations provided in said "circular" from the governor.

4. The constitution having provided the secret ballot to secure perfect freedom in voting, any attempts to evade that provision by having a private ballot-box apart from that established by law, or any other device for the purpose of prying into the votes of citizens, and by intimidation to prevent a free exercise of the right of suffrage, are forbidden and must be suppressed; and such private ballot-box is to be seized and destroyed, and the parties guilty of such attempts must be arrested and held for punishment under the said law of this State, approved August 15, 1870, and the act of Congress of the United States for the "enforcement of the fourteenth and fifteenth amendments," approved May 31, 1870.

EDMUND J. DAVIS,
Governor.

Indorsed: "Geo. Goldthwaite. Leslie Thompson, jr., United States commmissioner, eastern district of Texas."

[Circular.]

HEADQUARTERS STATE OF TEXAS,
OFFICE ADJUTANT GENERAL AND CHIEF OF POLICE,
Austin, Texas, August 9, 1871.

To the end that there may be no disturbance or intimidation at the registry of voters and about the polls at the coming election, the following regulations are established for the government of the officers of the election, and of peace officers, State guard, and militia, on duty by order of the governor, at such registry and election.

I. All persons coming to vote shall deposit their ballots with the least possible delay, and after this is done they are forbidden, under any pretext, to remain about the polls, or at the county-seat, (unless this is their residence,) during the time of election, but shall return to their homes and usual employment; and peace officers, State guard, or militia, on duty at the polls, shall see that this regulation is complied with.

II. All persons are forbidden to shout, jeer at, or in any way insult or annoy voters or candidates for office during the registration and election; and peace officers, State guard, and militia, on duty in any county where such disturbances may be attempted, are directed at once to arrest such persons, and to hold them to be dealt with according to the provisions of section eleven of the act entitled "An act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box," approved August 15, 1870.

III. All gathering, combination, or assembling of persons in numbers at or near the county-seat during the time registration is being made, or the election is going on, and for the purpose of intimidating voters, is forbidden, and should any such gathering, combination, or assembly take place in any county, it shall be presumed that the same is for said purpose of intimidating voters, if such is the effect of the same, whatever might be alleged by such persons as the pretext thereof, and peace officers, State guard, and militia on duty in such county are directed to disperse such persons: *Provided, however*, That in this regulation it is not intended to interfere with persons peaceably and quietly waiting at the registration office or at the polls for their turn to register or vote.

IV. All sale, barter, or giving away of liquors or intoxicating drinks at the county-seat, or within two miles of it, during the time the election is going on, either during the day or night, is strictly forbidden by said act, approved August 15, 1870, and peace officers, State guard, and militia are directed to arrest persons violating this regulation, and to hold them to be dealt with according to law, and are further directed to close all establishments where such liquors or drinks are sold, bartered, or given away.

V. The carrying of fire-arms or deadly weapons of any description during the election, unless by peace officers, State guard, or militia on duty as such, by orders from the governor, is expressly forbidden, and all persons violating this regulation must be arrested and dealt with according to law provided in such case.

VI. The governor, as provided by said act, approved August 15, 1870, (section 52,) hereby assumes command, for and during the election, of all peace officers in the State, including sheriffs and their deputies, and city or town police, or marshals and their deputies, and those officers are hereby directed to place themselves under the direction of the officer designated or to be designated by the governor, as set forth in circular orders from this headquarters, and to aid him in enforcing these regulations and the laws of this State and the United States governing elections.

EDMUND J. DAVIS, *Governor.*

Indorsed: "Geo. Goldthwaite. Leslie Thompson, jr., United States commissioner, eastern district of Texas."

[Circular.]

HEADQUARTERS STATE OF TEXAS,
OFFICE OF ADJUTANT GENERAL AND CHIEF OF POLICE,
Austin, Texas, August 1, 1871.

To insure to every citizen in the State of Texas his right to register and vote at the coming election, and in conformity with the provisions of section 3 of "An act to amend an act entitled 'An act to establish a State police and provide for the regulation of the same,' approved May 2, 1871," the special policemen in each county who have been, or may hereafter be, appointed are hereby called into the service of the State of Texas for twenty-four days, commencing with the opening of the registration and closing with the last day of the election, fixed by proclamations of his excellency Edmund J. Davis, governor of the State of Texas, under dates of May 24 and July 26, 1871, to be held on the 3d, 4th, 5th, and 6th days of October, 1871.

While in the service of the State, in compliance with this order, the special police force in each county will be under the supervision and orders of an officer of the State police, or of a special policeman, to be assigned from this office, and in case no such assignment is made then they are to be under the supervision and orders of the registrar of the county in which they reside, and will receive and obey his instructions.

The police, both state and special, are especially enjoined to see to it that all voters within the counties wherein they may be detailed for duty have an opportunity to register and vote at said election, free of all hinderance or intimidation.

Special policemen will be allowed pay for the time specified at the rate fixed by law, ($3 per day,) payable "out of the county treasury of the county where employed," upon rolls presented to, and properly certified by, the chief of police.

By order of the governor and commander-in-chief:

JAMES DAVIDSON,
Adjutant General and Chief of Police, State of Texas.

Official:

JAMES DAVIDSON,
Adjutant General and Chief of Police, State of Texas.

Indorsed: "George Goldthwaite. Leslie Thompson, jr., United States commissioner eastern district of Texas."

WILLIAM R. BAKER, being duly sworn, answers:

Question. What is your age, name, place of residence, occupation, and how long have you lived in your present place of residence?—Answer. My name is William R. Baker; my age is fifty-two years; I reside in Houston, Harris County, Texas, where I have resided thirty-five years; I have held the position of county clerk of Harris County—elected by the people; I held that position sixteen years; have since held the position of president of the Houston and Texas Central Railroad.

Question. Where were you during the late congressional election, and the registration immediately preceding the same?—Answer. In the city of Houston, Harris County, Texas, in the third congressional district.

Question. How were said election and registration conducted? State any facts within your knowledge, and your means of information, showing whether the same was conducted in the interest of either party, and which party; the political party to which the officers of election and registration belonged, and the police in attendance?

(Counsel of contestee here objected to this question as being irrelevant to any issue presented by the pleadings.)

Answer. The governor of the State (E. J. Davis) is a radical in politics. He ordered the election and appointed the registrars and board of election, and they are all personally known to me to be radicals, and strong partisans for the election of General Wm. T. Clark as Representative to Congress from the third congressional district of Texas. The registrar was W. H. Allen, and the board of election was J. E. Whittlesey, Henry Wiener, and John Coss. A large number of police-

men, armed with revolvers, and mostly colored men, were appointed and served during registration and election, all of whom were radicals, and strong partisans for the election of General W. T. Clark. The registration took place at the court-house, in the city of Houston, in one of two rooms occupied by the sheriff. The candidate for registration was introduced at one door of the back or rear room occupied by the sheriff and left by another door entering into the front room occupied by the sheriff; both doors were guarded by negro armed police; the door of entrance was guarded by two to four policemen, and was, for one or two days at the beginning of registration, open, from which opening those outside could observe what was going on inside; every white man, except the intimate acquaintances of the registrar, Allen, was interrogated closely, and required to prove by other than his own oath the facts of residence, age, &c.; and it was observed that the colored men were asked no questions except their names, and that in but few instances, as they, in many cases, bore a scrap of paper, having their name upon it, which was handed in and no questions asked; those presenting the papers had procured them in an adjoining room, given to them in some if not all cases by J. E. Whittlesey; there was no fee demanded of them, which was required of the whites. I think about the second day of registration the entering door, as well as all others, was closed, and no one allowed from the outside to observe the proceedings. The certificates of registration were numbered. On the last four days of registration I was in the habit of asking the last persons registered, when the registrar took a recess or adjourned for the day, as they left the room to show me their certificate for the purpose of observing the number, and when registration was resumed after recess, or the next day after adjournment, I would inspect the first certificates issued, and found discrepancies on every occasion of from five to fifty numbers—the numbers on certificates issued on the resumption of registration being larger than the last numbers on adjournment. I was present every day during the ten legal days of registration, and found that the policemen were engaged hunting up and urging colored men to register. When large numbers were awaiting registration, I have seen the policemen take men in the exit door, out of their turn, to register; in such cases the applicants were colored, or notorious radical partisans. There were some protests to this course by the democrats, but it did not prevent the officers and policemen from using the whole machinery of registration for the convenience of the one party. I was present at the four days of the election several times during each day. The election was held at the court-house; the electors formed in two lines, which lines were sometimes one hundred yards long; the colored police arranged on each side of these lines and kept off all outsiders from interfering with the voters. There was scarcely an exception—each of the policemen carried a handful of Clark tickets and distributed them, without hinderance or interference, in the line of voters, but would not allow any one on the democratic side to do so. I saw one instance of a colored policeman taking from a colored man his ticket by grabbing it and substituting another; the one taken away was a white ticket and the one substituted was a plaid or colored ticket. The election was carried on peaceably, there was no violence in word or action.

(Answer objected to by attorney of contestee, on the ground of irrelevancy.)

Question. Do you know of any fraud, intimidation, or violence, practiced by contestant or his political friends, whereby republicans were

deterred from voting for the candidate of their choice?—Answer. I do not.

Question. Do you know the political sentiments of the voters of Harris County, Texas? How did the colored people and how did the whites vote at last election?—Answer. I am tolerably well acquainted with the political bias of the people of this, Harris County—the white people especially. The colored people are nearly all radicals, probably not more than about half a dozen having voted democratic at the late congressional election. The white voters are nearly all democratic—probably between two and three hundred white voters voted the radical ticket at the last congressional election.

Question. Have you seen the certified copy of the report of the registrar and judges of election in Harris County, to the governor, in which it is charged that 621 persons were intimidated and prevented from voting for W. T. Clark, and in which yourself and others are charged with having intimidated voters? If so, please state the facts in relation to said charge; the history, character, and standing in your community of the parties making the charge.

(The attorney for contestee here objected to that portion of this question which relates to the history, character, and standing of parties making charges, &c., as being irrelevant to any issue presented by the pleadings.)

Answer. I have seen the certified copy referred to; I deny having intimidated any voters, nor do I know of any one on the democratic side having done so; the election was peaceable, and, so far as I could see or know, there was no force or threats used by the friends of D. C. Giddings in the election, and there was no obstruction to a free registration, or free vote, except such as was chargeable to the radical officers, by making more stringent rules for the whites which did not apply to the blacks. I know of but little of the history of those making the charge; Mr. Whittlesey and Mr. Coss are citizens of but short residence.

Question. Do you know of any intimidation being used towards any voter who desired to vote the democratic ticket?—Answer. I heard a negro, named Dan, who once belonged to me, say that he wanted to vote the democratic ticket, but was afraid to do so for fear of being "jumped on" by the niggers for so doing. I heard him say that after the election.

Cross-examined by counsel for contestee:

Question. Were there, within your knowledge, any votes bearing the name of D. C. Giddings fraudulently taken from the ballot-boxes before the votes were counted, or at any other time; and votes bearing the name of W. T. Clark put in their places by the judges of election?—Answer. Not to my knowledge.

Question. Do you know whether any of the officers of election were, during the election, arrested by any authority, State or Federal; and, if so, by what authority?—Answer. I know that the officers of election were arrested after the closing of the polls on the third day of the election, on a warrant issued by Judge Masterson, judge of the nineteenth judicial district of the State of Texas.

Question. Do you not know that the warrant for the arrest of the officers of election was presented by James Martin, of Harris County, to the said officers of election before the closing of the polls?—Answer. I do not. I stood in front of the court-house, and saw the officers of election in the custody of the deputy sheriff leave the court-house, and proceed to Judge Masterson's office. This was about twenty minutes past five o'clock in the evening.

Question. Did you see the warrant of arrest in the hands of Mr. Martin before the arrest of the officers of election?—Answer. I did not.

Question. Were you in the office of the registrar of election at any time during registration?—Answer. I was, once, for the purpose of being registered. I was in another time as a witness for some voter who desired to be registered.

Question. Were there any persons seemingly assisting the registrar, Mr. Allen?—Answer. Yes; Mr. Henry Weinar.

Question. Were there not plain or colored, and plain white tickets, bearing both the names of D. C. Giddings and W. T. Clark?—Answer. Yes.

W. R. BAKER.

Subscribed and sworn to before me this 4th day of March, A. D., 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

SAMUEL S. ASHE, being duly sworn, answers:

Question. What is your name, age, occupation and residence, and how long have you lived in your present place of residence?—Answer. My name is Samuel S. Ashe; my age is thirty-five years; I live in Harris County, Texas; I have resided in Harris County since 1857; I am justice of the peace for precinct No. 3, Harris County.

Question. Where were you during the late congressional election and during the registration immediately preceding?—Answer. In Houston, Harris County, Texas.

Question. State all facts within your knowledge, showing the manner in which said election and registration were conducted; whether or not the same was in the interest of either party, and which party; the political party to which the officers and managers of election and registration belonged, and the police in attendance?—Answer. I came to Houston during registration, in company with the bulk of citizens from my neighborhood, for the purpose of registering. Captain Dixon H. Lewis went in a little advance of me. He was objected to by the registrar for the want of a voucher. I noticed that there was great difficulty in getting into the registration room, and asked permission of the registrar to sit in the room to vouch for those who came from my neighborhood to register, telling him that this would expedite business. To this the registrar consented. I was put under oath, and was required to vouch for all white persons coming from my neighborhood, a great many of whom were old and prominent citizens. There were at least three instances in which three freedmen were permitted to register, who, upon being questioned by the registrar as to their age, answered that they were not twenty-one. The register prompted them, saying that he knew that they were over twenty-one. In no instance did they admit that they were twenty-one years of age or over. In one of these instances the boy who spoke up, saying that he was not twenty-one, was of such a youthful appearance that, had I been registrar, I would not have permitted him to register. One of them, answering that he was not twenty-one years of age, the registrar appealed to me to know if I did not think he was twenty-one years of age. I answered that I thought the registrar ought to take the boy's own word, as he had taken the word of the rest. The registrar then desired to know how long it would be before my party would be through with, as he could dispense with my services. I went to the door and looked around, and then returned, telling the registrar that it would take some time to get

through with my party, as they were coming in pretty thick. He remarked, "They are all democrats, aint they?" I answered that I thought they were, mostly. He said, "How is it that they never came up here before to vote?" I replied, "That I supposed they took more interest in this than they had taken in previous elections." Another freedman came in to register. The registrar asked his name and his place of residence. The freedman answered, "Missouri County." This answer rather embarrassed the registrar. He turned to me inquiringly, and I suggested that he might mean Brazoria County, as there was no such county as Missouri County. The freedman spoke up and said, "Yes, I live in Brazoria." I asked him in what town, and he replied, near "Columbia." Columbia is a town in Brazoria County. This freedman was admitted to registration. All this while the conduct of Mr.Allen was far from being polite towards me, and by his conduct seemed to me to desire my room, not my company. I tried to be civil and conciliatory. I was polite to Mr. Allen, as I desired to get my party registered without any trouble or disturbance, and with as little delay as possible. I never saw Mr. Allen, the registrar, to know him, until that day. An Irishman came in during the time I was in the registration room, and presented registration papers from some other county, and asked to know if he could be allowed to vote in Harris County on those papers. The registrar looked at him as though he would ask him how he intended to vote, and finally told him, no, he could not, and told him he might pass out; and one of the colored policemen on duty in the room had a private chat with the Irishman, and asked Mr. Allen in a very pertinent way if he could not reconsider his action in the Irishman's case. My presence then seemed to embarrass Mr. Allen very much; he replied, no. "He had better come in, and see me (Allen) again." There were several similar instances occurred, but this I remember more distinctly. At this time Mr. Allen again asked me very petulantly, if I was not about through. Up to this time a great many things had occurred calculated to excite my indignation on account of the fraud and unfairness of the registrar's proceedings, and the actions of the police in attendance on the registrar. Two freedmen stood at the door, one with a switch in his hand and a cigar in his mouth, and would frequently force back with their hands, rudely, too, white men who were seeking to register, requiring the white men, in some instances, to give way to the colored voter. On one occasion I appealed to Mr. Wienar in favor of an old crippled white man, an old citizen, by name of Dunman, of forty years' residence in Texas, to permit him to come in and register. My appeals were listened to, and Dunman was permitted to come in and register. About this time a young man, by name of Runnells, came in; he was put under oath, and asked how old he was; he replied, "twenty-one years old." The registrar doubted it, and wanted to know if I could vouch for his age; I replied that I could not, but I could vouch for his good character. The registrar would not permit Runnells to register; he rejected him. Runnells then spoke up, saying, "I am a married man, and my wife's brother is here; he can perhaps vouch for my age," which evidence was likewise rejected. He, Runnells, was passed out, without being allowed to register. I sent for Runnells's father-in-law, who came in and was put under oath, and testified that he was twenty-one; and when I insisted that, as the registrar had permitted the freedman to register who had denied being twenty-one years of age, that Runnells, who had sworn to being twenty-one years of age, should be permitted to register. The registrar afterwards reluctantly permitted Runnells to register. After this, in several other instances of

a similar character, the registrar made no disguise of his feelings towards me, and he told me he would dispense with my presence. I replied that he need not be so uneasy about my being there, as I was glad to leave; that I had witnessed a most outrageous piece of rascality, and that I denounced him as a fraud upon the community; that the whole thing was a farce; that people might as well stay at home; that he, Allen, was a sworn officer; that he had perjured himself, as I had witnessed in many instances. I was indignant and refused to leave the room under arrest from the policeman present. At the rupture between us, Allen had already left the room and closed the door upon me. I called upon Mr. Wienar, one of the members of the registration, that I would hold him as a witness to the proceedings that had led to this rupture; that I did not wish to interrupt the registration, and demanded of one of the policemen to send Sheriff Hall in there, and that he, Hall, might arrest me and remove me from the room. The policemen in attendance there had put on their six-shooters, and I was held, as it were, a prisoner. Sheriff Hall came in immediately, remarking, "Mr. Ashe, I want you to understand that I have no hand in this thing." He handed me a capias from Judge McDonald. He carried me out of the room, the doors of the registration-room were immediately opened, and the registration proceeded. I was in Houston three days during the election, and I can say that the election was conducted in the most unfair and partial manner, and that fraud and violence were used to intimidate the white people, and to force the colored people to vote for General W. T. Clark. Armed negro policemen, with the badges of authority, were seen everywhere around the polls. I saw the policemen muster up negroes to the polls, and I heard them use threatening language to white people. Some of these policemen were drunk and violent in their manner. I saw white persons who had been ejected from the polls go to a colored policeman and ask him to conduct them to the polls. Some one called my attention to a freedman who had in his possession two registration certificates. I told him the law was very severe, and advised him to use but one of them. He said that one belonged to a partner of his who was sick at home. A drunken policeman came up and ordered me away, and a crowd of negroes gathered around me and were very threatening in their manner. I told them that I was only advising the freedman to use but one registration certificate. About that time the same crowd that had gathered around me got after a freedman who had voted the democratic ticket, and cursed and abused him, scaring him very badly. A freedman named Moses, who had not been registered, came up from Clear Creek, who during the election received his registration papers and voted. A white man named Lee Chamberlain had not been registered, and asked me if he could register during the election as Moses the freedman had done. I told him he might try it, as a precedent had been established in the case of Moses. He tried it, but was refused. After the arrest of the officers of election, the polls were closed during the forenoon of the day after their arrest, and a great many persons who would have voted for Colonel Giddings were prevented thereby by reason of their living a long distance from the polls, that day being the last day of the election. The officers of registration and election, and the police in attendance on the registration and election, were open and avowed supporters of General W. T. Clark.

(Contestee objects to this answer on ground of irrelevancy.)

Question. Have you seen the certified copy of the report made to the governor of the State by the officers of the election of Harris County,

in which you, with others, are charged with intimidating voters? State the facts in relation to the same, and whether the charge so made is true.—Answer. I have seen it, and I think it the most astounding falsehood I have ever seen.

Question. Did you see any interference with, or intimidation of, any republican voters, by any of the friends or supporters of Colonel D. C. Giddings?—Answer. I did not. I will further add that I have lived in Texas twenty-four years; my father, John B. Ashe, was member of Congress from Tennessee; my uncle, William S. Ashe, was a member of Congress from North Carolina.

(The latter part of this last answer in relation to the time witness has lived in Texas, and concerning his father and uncle, objected to on the ground of irrelevancy.)

Question. Do you know who Whittelsey, Coss, and Allen are, the parties who made the report to the governor, referred to in the preceding questions?

(Question objected to by contestee on the ground of irrelevancy, and because there is no foundation for the question.)

Answer. I know Whittlesey very slightly; the perpetration of the falsehood by him in his report to the governor, above referred to, induces me to the belief that he is a man entirely devoid of principle. Coss is an inoffensive, civil sort of a negro; he is deputy clerk in the district court. I know nothing about Allen.

Cross-examination:

Question. How long did you remain in the registration office on the day you came up with your friends to register?—Answer. About five or six hours; perhaps longer.

Question. How many persons were in the office assisting Mr. Allen, the registrar? and name them.—Answer. Four colored men and two white men. Coss and Wienar were the white men. I think there was another white man whose name I did not know. The colored men I did not know. I knew their faces, but not their names.

Question. During any other day of the registration were you at or about the registration office?—Answer. I was not.

Question. Do you know if the colored man who was registered by the registrar, and who said he lived in "Missouri County," voted or not upon his certificate of registration; if yea, what ticket did he vote, the democratic or republican?—Answer. I do not know.

Question. Do you know if either of the young colored men who said they were under twenty-one years of age, and who were registered by Registrar Allen, voted or not?—Answer. I do not.

Question. Were any tickets bearing the name of D. C. Giddings fraudulently taken out of the ballot-boxes, and others bearing the name of W. T. Clark put in their place by the managers of election?—Answer. None that I know of.

Question. Were the officers of election arrested during the election; if yea, by what authority?—Answer. They were arrested by a warrant issued by James Masterson, judge of the 19th judicial district of the State of Texas.

Question. Who served the warrant of arrest?—Answer. I do not know.

SAM'L S. ASHE.

Subscribed and sworn to before me this 4th day of March, A. D. 1872.

LESLIE THOMPSON, Jr.,
United States Commissioner, Eastern District Texas.

WILLIAM P. HAMBLIN, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is William P. Hamblin; I am in my thirty-eighth year; occupation, a lawyer; I reside in Houston, Harris County, Texas.

Question. Where were you during the late congressional election in Harris County?—Answer. I was in Houston, Harris County, Texas.

Question. State any facts showing the manner in which the election was conducted.—Answer. The election was conducted unlawfully in some instances, and unfairly toward a large class of our people. Unfairly, because the regular police, as well as the twenty special policemen appointed by the governor, were all radical republicans, and mostly freedmen, and avowed and open partisans and supporters of General W. T. Clark. They were obtrusive, overbearing, and often insulting, towards the supporters of Giddings. They all, or nearly all, spent a large part of their time in openly electioneering for, and advancing the interests of, W. T. Clark. I saw no disorder among the people, and there was a general expression of a determination to bear anything rather than have a disturbance. I saw no demonstration, heard no threats, and do not think I ever saw the city of Houston so peaceable and quiet. The liquor-shops were all closed; the people generally approached the polls, voted, and then retired to their homes.

Question. Do you know anything of the arrest of the officers of election? if so, state all you know in relation to the same; the time when the arrest was made, the cause of the arrest, when discharged, whether or not the arrest prevented them from discharging their duties as judges of election.—Answer. I do know something of the arrest of the officers of election, J. E. Whittlesey, John Coss, and Henry Wiener, as well as W. H. Allen, the registrar. The arrest was made at or about 5 o'clock p. m. of the third day of the election. The cause of their arrest is as follows: I learned that parties were voting on registration papers bearing a higher number than the highest number on the books of registration at the close of the board of appeals and revision, and that the registrar and managers of elections claimed the right to not only issue registration papers during election, but to enter them upon the books of registration; and that they had so entered over three hundred names. I called this irregularity to the attention of republicans and political friends of W. T. Clark; they did not deny that the act was done, but said they had the right to do it. I regarded it as a felony under the law, and if permitted there could not be a fair and impartial election. I further learned that there were a large number of colored people brought from other counties to vote. As the registration certificate was *prima facie* evidence of a right to vote, and no challenges were permitted at the polls, I saw that a fraud was being perpetrated upon the citizens of this district at the polls. Accordingly I made an affidavit before Judge Masterson, of the nineteenth judicial district of the State of Texas, charging the said officers of the elections and the said registrar with the acts above stated. He issued a warrant for their arrest, and they by virtue of said warrant were arrested and brought before him after the closing of the polls as above stated. The judge discharged them at once, stating that he would not hold them in custody because of their duties; that they should appear before him on the Monday morning following the election. On the next morning, the last day of election, we found that the polls were closed, and learned that the officers of election said it was because they had been arrested. The arrest created no disturbance, and the morning when the polls were closed, the last day of the election, all was peace-

able and quiet; so much so, that the governor learning the state of affairs ordered the polls opened, and they were opened accordingly; they were opened, I believe, about 1 o'clock p. m., and voting went on as usual until the final close of the election. On this last day there were not many votes to be polled, in fact the attendance at the polls was very thin, there being at times but one or two persons at the polls other than the officers of election and the police. In the morning when it was ascertained that the polls were closed, there was a great deal of surprise, and probably half a dozen white persons went away thinking that the polls were closed for good. But it soon became generally known that they would be reopened, and people who had not gone off remained to vote. I do not believe that the officers of election were at all hindered or disturbed in the discharge of their duties on account of their arrest. On the Monday following their arrest they appeared before Judge Masterson, waived an examination, and gave bond to appear before the criminal district court of Harris County, Texas, and await the action of the grand jury.

(Contestee, by counsel, here objected to this answer as irrelevant to any issue in the pleadings.)

Cross-examination:

Question. What time in the day were the managers arrested? Upon whose affidavit?—Answer. About 5 o'clock in the evening, after the polls were closed. Upon my affidavit.

Question. Do you know of any person who was prevented from voting for D. C. Giddings in this county? Name the person.—Answer. I know that all persons who had made their declarations of intention to become citizens were precluded from voting because they were not permitted to register; and in nearly every instance people from the country, and who had no personal acquaintance to vouch for them, were denied registration papers, and their oaths would not be taken by the registrar, though the law gave him that discretion. He never exercised that discretion in favor of the white people. This answer refers to the white people; colored people met with no difficulties whatever; their papers were promptly made out and even sent to them in distant parts of the county, without their ever appearing before the registrar. Nearly every person, I mean white person, would have voted for Giddings, judging from those who did vote, and the general expression to me, my position being such as to throw me in contact with large numbers of them. I telegraphed to Austin, Texas, to get the restrictions that had been placed upon foreigners who had made their declarations of intention to become citizens removed, but without success. All the white people, both democratic and republican, except State officials and their supporters, who among us are termed radicals, voted for D. C. Giddings. I cannot name specially any particular person who was deterred from voting for D. C. Giddings, as the names have passed out of my mind.

Question. What person was in attendance from the democratic party during the four days of election?—Answer. W. C. Wagley, a portion of the time, and T. U. Lubbock a portion of the time, and I think Henry Sherffius.

Question. Where did the register have his office? Did not the sheriff attend to his usual daily business in his office? Who else was present in the register's office?—Answer. The register had his office in one room of the sheriff's office. The sheriff could not attend to his usual daily business in that room of his office, because of the continual stream of people passing through and crowding round it; besides the occupancy

by the registrar and his assistants. Henry Wiener and another white man, name not recollected, assisted the registrar in filling blanks, &c., as well as signing his name to the certificates of registration issued by him; there were also present in the registrar's office several policemen, colored and white, at times going in and coming out. The officers of election and registration, the police and the sheriff, were open and avowed partisans of W. T. Clark, and were opposed to D. C. Giddings.

W. P. HAMBLIN.

Subscribed and sworn to before me this 4th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

W. C. WAGLEY, being duly sworn, answers:

Question. What is your age, name, occupation, and place of residence?—Answer. My name is W. C. Wagley; my age is forty-four years; my occupation land agent; I reside in Houston, Harris County, Texas.

Question. Where were you during the late congressional election in Harris County, and during the registration immediately preceding?—Answer. In Houston, Texas.

Question. State any facts within your knowledge, showing the manner in which said registration and election were conducted?—Answer. I was in Houston, but not present in the registrar's office, and know nothing about the manner in which it was conducted until the election was commenced. I was called into the office when the voting commenced, by Mr. Whittlesey, one of the judges of election, as one of the outside parties agreed upon to watch the proceedings and manner of voting. Mr. Whittlesey received the ballots, I stamped them, and Mr. Taylor compared the numbers with those on the registration-book returned to the judges. Some time in the morning a certificate of registration, signed by W. H. Allen, registrar, was presented. Upon an examination of the books no such number was found, it being some eight or ten higher in denomination than the last one on the book. Upon consultation we decided that it should be rejected. Mr. Taylor remarked that he thought it was one among others which Allen said he had registered the day or night previous, and had neglected to place upon the books. During the day there were fifteen or twenty of this same class of certificates offered and rejected. Upon the opening of the polls next morning, when I went into the room, I found that these numbers had been placed upon the books and were being voted. Upon calling attention to the fact, I was informed that they had decided that they had a right to add to the registration during the election, and although I cannot now recollect the numbers, my impression is that there was over one hundred votes added during the first night to the registration book.

Question. Were any of the friends of Colonel D. C. Giddings allowed to come near the polls for the purpose of challenging illegal voters?—Answer.—I do not think there were any challengers allowed outside for either party. I do not know that any effort was made by either party to challenge voters outside.

Question. Who besides voters were around the polls outside?—Answer. I saw none but voters and policemen.

Question. What did those policemen do?—Answer. They appeared to be getting the voters up, receiving their ballots, and passing the ballots and registration papers to Whittlesey, judge of election. Whittlesey put the ballots in the box, and would pass the registration papers to myself and others, to be stamped "Voted."

Question. Did you see any of the policemen change the ballots of any voter?—Answer. I did not.

Question. Do you know of any fraud, intimidation, or violence practiced by contestant or any of his political friends whereby any republican voter was deterred from voting for the candidate of his choice?—Answer. I do not.

Cross-examined:

Question. When the policemen received the ballots and registration-papers of voters, was it not so done in the presence of the voter, and was not the ballot placed in the box in the presence of the voter?—Answer. It was done in the presence of the voter, that is, while the voter was present. The voting was done very rapidly.

Question. Were not these acts done in your presence?—Answer. The ballots were placed in the box in my presence.

Question. What was the object in stamping the registration papers of voters?—Answer. I understood it to be to prevent re-voting, or repeating.

Question. Do you know of any votes bearing the name of D. C. Giddings being fraudulently taken from the ballot-boxes by the officers of election, and others bearing the name of W. T. Clark placed in their place?—Answer. I do not. I was only in the room part of the first two days.

W. C. WAGLEY.

Subscribed and sworn to before me this 5th March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

JAMES MASTERSON, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is James Masterson; my age is thirty-three years; I am judge of the nineteenth judicial district of the State of Texas; I live in Houston, Harris County, Texas.

Question. Did you issue a warrant of arrest for the registrar and judges of election for Harris County, Texas, during the last congressional election in Harris County, Texas? Please state your action in the premises, and all the facts connected therewith.—Answer. I did. W. P. Hamblin, a reliable citizen of Harris County, Texas, made an affidavit before me, that a felony, according to the statutes of Texas, had been committed and was being committed. The affidavit is in words and figures as follows, viz:

THE STATE OF TEXAS, *County of Harris:*

W. P. Hamblin, being duly sworn, on oath says that Wm. H. Allen, since the close of the registration for Harris County on the 22d day of September, 1871, and since the close of the board of appeals on the 2d day of October, 1871, has knowingly, fraudulently, and corruptly issued registration papers to divers persons, and placed them on the registration list and is continuing to do the same, and J. E. Whittlesey, Henry Weiner, and John Coss, who are judges of the election, are corruptly receiving the ballots of such illegally registered persons, and are knowingly and corruptly permitting the said Allen to place the names of such persons on the registration list of Harris County; that said pretended registration is all done unlawfully, fraudulently, and corruptly and secretly, and with a view to obstruct a fair election, and to fraudulently obtain a result in said election against the law; that the names of such persons so registered are to affiant unknown, but they are very numerous and are being voted hourly.

W. P. HAMBLIN.

Subscribed and sworn to this 5th day of October, A. D. 1871, before me.

JAMES MASTERSON,
Judge Nineteenth Judicial District of Texas.

Upon said affidavit being made and lodged with me, I, as required by the statutes of the State in such case made and provided, issued my warrant, which is in words and figures as follows, viz:

THE STATE OF TEXAS, *County of Harris:*

The State of Texas to the sheriff or any constable of Harris County, greeting:

You are hereby commanded to take the bodies of Wm. H. Allen, J. E. Whittlesey, Henry Weiner, and John Coss, and bring them before me at my office in Gray's building, in the city of Houston, at 5 o'clock and 30 minutes on October 5, 1871, then and there to answer the State of Texas on a charge of knowingly and fraudulently registering voters for said county, and permitting the said voters knowingly and corruptly to vote and deposit their ballots in the ballot-box of Harris County; herein fail not, but due return make of this writ, with the manner how you have executed the same.

JAMES MASTERSON,
Judge Nineteenth Judicial District of Texas.

Said writ was executed, as appears from the return made, which is written on the back thereof. The return is in the following words and figures, viz:

Received October 5, 1871; executed same day by arresting and bringing at half-past 5 p. m., before Judge Masterson, in his office, the within-named parties, J. E. Whittlesey, W. H. Allen, H. Weiner, and J. Coss.

A. B. HALL,
Sheriff Harris County.
R. VAN PATTON, *Deputy.*

When the warrant was returned, and the parties named in the writ were brought before me, I made the order in words and figures as follows, viz:

IN CHAMBERS, NINETEENTH JUDICIAL DISTRICT,
Houston, October 5, 1871.

Upon motion of the district attorney, it is here now ordered that the respective parties named in the foregoing affidavit, and who have been arrested under a warrant issued thereon and brought before me this evening at 5½ o'clock p. m., be released from arrest till Monday, the 9th day of October, 1871. The object of this order is to prevent in any manner any interference with the election, or of the judges thereof, in the discharge of their official duties. All of said parties will appear on Monday morning, at 10 o'clock of 9th October, 1871, to answer the charges against them as contained in said affidavit.

JAMES MASTERSON,
Judge Nineteenth Judicial District of Texas.

I directed the district attorney to telegraph the order I had made to the governor, and supposed he had done so until next morning, when I ascertained he had not, because, as he said, the wires were down. My telegram was written at between 9 and 10 o'clock, and sent by me in the presence of J. E. Whittlesey, whom I informed that I would telegraph the governor the facts; that his closing the polls was a sham and a pretense, and words of similar import. The telegram is in words as follows:

HOUSTON, *October* 6, 1871.

Governor E. J. DAVIS, *Austin:*

Upon affidavit of felony, the registrar and judges of election were arrested and brought before me at 5.30 p. m. yesterday. I released them till Monday, in order not to in any way interfere with the election. The managers of election propose to close the polls. There is no necessity for doing this. I give this information for executive action.

JAMES MASTERSON.

In about two hours I received a telegram from Governor Davis in reply, in words and figures as follows, viz:

AUSTIN, *October* 6, 1871.

Judge JAMES MASTERSON, *Houston:*

The board of election and registrars should not have been arrested during election; I have ordered them to re-open election. Dispatches about this affair not received till this morning.

E. J. DAVIS, *Governor.*

Immediately upon receiving the above telegram, I went to the Union office, where I had been informed said J. E. Whittlesey, Allen, and others of the managers were, and read to him, (Whittlesey,) said telegram, and informed him I had replied to the governor that I would do so; I found present J. E. Whittlesey, General William T. Clark, T. H. Scanlon, mayor of Houston, Judge C. Caldwell, Senator G. T. Ruby, W. H. Allen, and several others whom I do not at this moment recollect; said telegram was read by several after I had read it in the full hearing of all present.

On Monday morning, October 9, 1871, the following proceedings were had in the matter of said parties so arrested, viz:

THE STATE OF TEXAS,
vs.
WM. H. ALLEN, J. E. WHITTLESEY, HENRY WEINAR, and John Coss.

OCTOBER 5, 1871.

Affidavit by W. P. Hamblin, filed; warrant of arrest thereon issued, returnable at 5½ o'clock p. m.

Upon motion of Henry E. Perkins, esq., district attorney, this cause is postponed for hearing till Monday morning, 10 o'clock, October 9, 1871.

MONDAY MORNING, *October* 9, 1871.

Defendants, by their respective attorneys, and in person, waived an examination, and the bail is fixed in each case at $500, conditioned for the appearance of said defendants, Wm. H. Allen, J. E. Whittlesey, Henry Weinar, and John Coss, before the criminal district court of Harris County, Texas, on the second Monday in October, 1871, and from day to day, and time to time of said court, till finally discharged by said court, to answer the State of Texas to any indictment which may be found against them respectively before said criminal district court, against defendant Wm. H. Allen, for knowingly, fraudulently, and corruptly issuing registration papers to divers persons, and placing them on the registration list contrary to the statutes in such cases made and provided, and against J. E. Whittlesey, Henry Weinar, and John Coss for corruptly receiving the ballots of such illegal registered persons, and knowingly and corruptly permitting the said Wm. H. Allen so to place the names of divers persons on the registration list of Harris County, Texas, contrary to the statute in such case made and provided. Said defendants are committed to the custody of the sheriff of Harris County till they respectively execute the bonds required of them. Upon the executing the said bond, and the approval thereof by the sheriff of Harris County, Texas, said parties to be released from custody.

JAMES MASTERSON,
Judge Nineteenth Judicial District of Texas, sitting as Examining Magistrate.

I returned all the papers in said matter to the clerk of the criminal district court of Harris County, Texas, as I was by law required to do. On the 22d of December, 1871, I, in open court, moved to be allowed to have the original papers, upon leaving a certified copy thereof with the clerk; and it was then so ordered, and I complied with said order, and now have said originals, from which I have written the above.

(Contestee by his counsel here objected to the foregoing answer, on the ground that it was wholly irrelevant to any issue raised by the pleadings.)

Question. Were the polls closed by the judges of election on the last day of election? If yea, was there any necessity for closing them, so far as your action in arresting them was concerned; and at what time were they opened, if opened at all?—Answer. I was informed that they

were closed. I found Whittlesey, one of the judges of the election, at the Union office. Whittlesey told me that they were closed. There were printed placards posted around town, signed, or purporting to be signed, by Whittlesey, informing the public that the polls were closed in consequence of the arrest of the judges of election on the preceding day. There was no necessity for closing the polls, so far as my action in arresting them was concerned, and they, the judges of election, knew it, too. On the evening of the 5th October, A. D. 1871, after tea, I saw Whittlesey at the Union office, whither I had gone with A. K. Taylor, and had some conversation with him, Whittlesey. In reply to some suggestion of Whittlesey's as to closing the polls in consequence of the arrest, after he, Whittlesey, had been released, I told Whittlesey that he would not be justified in not opening the polls the next morning, 6th October, A. D. 1871, at the legal hour, and I advised Whittlesey, by all means, to open the polls as usual, and to heed no advice or suggestions to the contrary. The polls were opened, I believe, between 1 and 2 o'clock in the afternoon of the 6th of October, A. D. 1871.

Question. Were your instructions as to the time when the arrest of the officers of election was to have been made complied with? State what were those instructions.—Answer. On the 5th October, A. D. 1871, and before the warrant of arrest spoken of had been served, I went to Sheriff Hall's office, and instructed him to interfere in no way with the election; but to wait until the hour for closing the polls had elapsed, and the polls were closed, before arresting the parties named in the warrant. These instructions were given Sheriff Hall after the hour of 5 o'clock p. m. of the day upon which the arrest was made. The sheriff's return upon the warrant of arrest shows that my instructions were obeyed. The affidavit of A. B. Hall, the sheriff, now in my possession, shows that he obeyed the instructions so given him by me.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I do not.

Question. Was the election a peaceable, quiet, and orderly one, or otherwise?—Answer. It appeared to me to be an exceedingly quiet, peaceable, and orderly one.

Question. Do you know J. W. Henderson, ex-governor; Samuel S. Ashe, justice of the peace; Robert Lockhart, old citizen; W. P. Hamblin, W. H. Crank, George Goldthwaite, W. R. Baker, Dick Westcott, C. A. Turley, James Martin, Schutz Oder, Otto Ericson, Alexander Ericson, the parties charged in the report of the judges of election as having intimidated voters? if so, state what are their characters and standing in this community, and whether said charge is true or false.—Answer. I know all, personally, except Schutz Oder, and him, I think, by reputation and by sight. They are all good citizens, of good reputation and standing in this community. I know of no facts that would tend to show the charges as made in the report of judges of election to be true, nor do I believe, from my knowledge of the men preferring the charges and from my knowledge of the men against whom the said charges are made, that said charges are true.

Cross-examination:

Question. Do you know if any of the parties named in contestant's last question did or did not intimidate or attempt to intimidate any voter?—Answer. I do not know that they did; neither do I know that they did not.

Question. Do you remember at what time in the day the bench-warrant was issued against the judges of election by you on the 5th October, A. D. 1871; and to whom did you deliver said warrant?—Answer. It was issued about 5 o'clock p. m. October 5, 1871. I first went to the sheriff's office, to deliver it to him personally; not finding him in at that time, I gave the warrant to W. P. Hamblin, who stated that he would find the sheriff and hand it to him.

Question. Do you know if any tickets bearing the name of D. C. Giddings were fraudulently taken from the ballot-boxes by the judges of election, and others, bearing the name of W. T. Clark, put in their places?—Answer. I do not.

JAMES MASTERSON.

Subscribed and sworn to before me this 5th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District of Texas.

R. D. WESTCOTT, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is R. D. Westcott; my age is sixty-two years; I am a miller; Harris County, Texas. I have lived in Texas thirty-five years, most of the time in this county.

Question. Do you know of any illegal registration and illegal voting at the late congressional election in Harris County? State your means of knowledge.—Answer. I do. I was in Houston during the whole time of registration and election, every day. I knew a party of negroes from Montgomery County, Texas, headed by the Rev. Henry Parker, a negro, formerly a slave of Dr. Parker, of Montgomery County. There were about nine in the party; they passed my house about 9 o'clock of the morning of the first day of election. I knew Henry Parker well, and I hailed him, and asked him in to take a drink. He came in. I asked him where he was going, and he replied that he was going to Houston, to vote. I told him he was doing very wrong; that he was not a citizen of this county, and had never resided within the limits of this county. He said he had been instructed differently; that he had been told that he was entitled to a vote, and that he would go to town and see. I came to town soon after the polls opened, and I met with the Rev. Tony Parker, a freedman; he was in company with five or six negroes who lived in Montgomery County, Texas. I remained in Houston during the day, and I saw the members of the party headed by Henry Parker, above spoken of, go into the room where the polls were held, go in one door and come out at another, with their papers in their hand; these men went in separately, I think. I judged that they voted, as none but voters were allowed within the room where the polls were held. Henry Parker told me afterward, when I met him in town, that I was mistaken; that he was entitled to a vote. I saw Tony Parker in the line of voters the next day. I dispatched a note, through Sheriff Hall or one of his deputies, to the judges of election, stating that Tony Parker was a citizen of Montgomery County, and was not entitled to a vote in Harris County. Tony Parker came out the exit door with his paper in his hand. During registration, I must confess that I never witnessed so disgraceful and shameful a proceeding. Negroes, evidently, from their general appearance, not twenty-one years of age, were permitted to register, without even an oath being administered to them to prove up their age. For the first two days of registration, the door leading from the hall to the registration-room was open, and spectators who had friends to vouch

for were permitted to remain in the hall. I do not recollect seeing an oath administered to a negro, proving up his identity or his age, during that whole time. Very differently, however, was the rule with regard to white men. If the white man who offered to register was not personally known to the registrar, or to his assistants, he was required to bring parties to vouch for him; his oath was refused. During the time I had an opportunity of seeing what transpired in the registrar's room, in no instance was the oath of a white man taken; he was required to bring parties to vouch for him, so far as I saw. There was an old gentleman, by the name of Dunks, a cripple, whom I have known in Texas thirty-three years, who lived in this county, on the borders of Liberty County, and Sam May and David Huffman, complained to me that they had been terribly perplexed and worried in getting their registration papers. These were all old citizens. If the registrar or some one of his assistants did not know the party vouching for the applicant for registration, he had to prove up his identity. A young man by the name of Jaeger, whom I have known from boyhood, presented himself for registration, and was told by the registrar that he must get two to vouch for him; that I, R. D. Westcott, would not do as voucher any longer. Jaeger came out, hunting up the second voucher demanded. I did not see him afterward, and cannot say that he registered. His friends had all left town, and my "vouching" was no longer of any avail.

Question. To which political party did the registrar and officers of election belong, and why was there any difference in the rule in registering whites and colored?—Answer. I believe that the registrar and the officers of election were radical republicans. I know that they were the supporters of W. T. Clark. The colored men were radical republicans and were voting for W. T. Clark, and the white men, generally, were democrats, and supported Colonel D. C. Giddings.

Question. From your long residence in Harris County do you know the political sentiments of the voters of said county, and what is your estimate of the relative strength of the two parties at the last election upon a fair registration and election?—Answer. I believe that I am personally acquainted with three-fourths of the white voters of Harris County, and believe that under a fair registration and fair election Colonel D. C. Giddings would have beaten General Clark by a majority of 1,000 to 1,200 votes. By the refusal of the officers of election to open the polls on the last day of election, at least 250 Giddings votes were excluded. Thirty-five men camped near my house on the night of the 5th of October, 1871, in order to come into Houston early the next day, vote, and get home the same day. My son and myself accompanied nineteen of this party to town, and upon reaching town we saw a placard posted up, announcing that, in consequence of the arrest of the judges of election by Judge Masterson, the polls would not be opened. These men thereupon made their arrangements to leave town for home. Of the thirty-five men encamped near my house I do not think over ten got to vote. The radicals had exhausted their strength before the last day—at least I think so—and I think the majority, the vast majority, of the votes that would have been polled on the last day would have been for Colonel Giddings.

Question. Have you seen the certified copy of the report made by the judges of election to the governor of the State, in which you, with others, are charged with intimidating voters? State if the charges therein made are true.—Answer. I have seen the report. So far as regards myself, I pronounce the charges wholly false and libelous, and

believe that the charges made against the others named therein are equally false, untrue, and libelous. I know all the parties charged therein personally, and they are persons of good moral character and standing in the community. I saw these parties frequently during the registration. I never heard of any intimidation until I read the report of the judges of election to the governor.

Question. Do you know whether or not the registration list for this county has been revised since 1867?—Answer. I do not think it has. I have heard of no revision.

Question. State whether or not it is the habit of negroes to change their names as they change employers; and do you know of any freedman having two sets of registration papers?—Answer. I know of several instances where they have changed their names in that manner. I know of a boy, formerly belonging to me, who registered as Nathan Westcott, and told me he had since registered as Nathan Jackson. He was very officious at the polls.

Question. Do you know Wm. H. Allen, John Coss, and J. E. Whittlesey, the registrar and judges of election who made the report to the governor above referred to? If so, state what is their character and standing in this community.—Answer. I know all those men. I have no close personal acquaintance with them. I know them when I see them. Mr. Allen, so far as common rumor is testimony, bears a bad character. He has the reputation of being a miscegenationist or amalgamationist, and is practically carrying out his notions. I regard him as a reproach to common decency. I know Mr. Whittlesey by sight. I have no personal acquaintance with him, having at one time declined an introduction to him, not wishing to extend my acquaintance in that direction. He came here, as was currently rumored, very poor, a carpet-bagger, who, after getting political position and place, has improved his circumstances, and is, as I am told, now loaning large sums of money at interest. John Coss is a negro; I know him by sight; I knew him only in his office.

(This answer is objected to as being irrelevant to any issue raised by the pleadings.)

Cross-examined:

Question. Do you know if any tickets bearing the name of D. C. Giddings were fraudulently taken from the ballot-boxes by the officers of election, and tickets bearing the name of W. T. Clark put in their place?—Answer. I do not.

Question. Do you know George Goldthwaite, W. R. Baker, Samuel S. Ashe, William B. Hamblin, James Masterson, and W. C. Wagley? If so, with what political party did they affiliate at the last congressional election?—Answer. I know them. I think they acted with the democratic party.

Question. Do you know whether Henry Parker, and Tony Parker, and the colored men referred to as coming with them from Montgomery county, voted in this county; I mean of your own knowledge?—Answer. I do not know of my own knowledge. I only know from circumstances; from seeing them pass in one door into the room where the polls were held, and pass out the other, as was usual with voters.

Re-examined:

Question. What were your politics before and during the late war, and with which party did you affiliate during the late election?—Answer. Before the war I was a Union man. I voted against the ordinance of secession. After the war commenced I acquiesced in the de-

cision of a majority of the people of the State. I affiliated during the late election with the democratic party.

Question. How was the election conducted—peaceably, quietly, and orderly, or otherwise?—Answer. Peaceably, quietly, and orderly.

R. D. WESTCOTT.

Subscribed and sworn to before me this 5th March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

At this time the commission adjourned for one hour, from 3 o'clock p. m. until 4 p. m.

At 4 o'clock p. m. commission met, and proceeded to examination of witnesses.

THEODORE U. LUBBOCK, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is Theodore U. Lubbock; my age is thirty-one years; a merchant; I reside in Harris County, Texas, in Houston; I have lived in Harris County all my life. I was born there.

Question. Where were you during the late congressional election and the registration immediately preceding, and in what capacity were you acting during the election?—Answer. In Houston, Harris County. I was one of the parties selected by the judges of election for Harris County, Texas, in accordance with the election order of the governor, to remain in the room in which the votes were received during the late congressional election for Texas, and to see the votes received and counted; and myself, with Henry Sherffius and W. C. Bagley, were selected by the judges of election in preference to B. A. Sheppard, president of the First National Bank, and W. R. Baker, two of the oldest and most responsible and most respectable citizens of our county, whose names were proposed by the people, together with the names above, to the said judges of election as suitable persons to be present on the part of the people's party. I was present every afternoon during the entire election, from the opening of the polls, after dinner, until their close in the evening. I was present during the counting of the entire vote, and sealed the box in which the votes were polled with my own private seal every afternoon.

Question. State how said election was conducted—peaceably, orderly, quietly, and fairly, or otherwise.—Answer. The election was not fairly conducted nor in accordance with my idea of the law. A crowd of armed police stood around the polls permitting no one to approach, for the purpose of challenging the votes of any one, and whose principal business seemed to be to snatch the ballots from the hands of the voters, and hand them in to the officers of election, which I believe was done for the purpose of changing the ballots of such colored voters as might have a ballot for D. C. Giddings, the people's candidate; and I further state, that the judges of election had arms stored in a small room, the door of which opened into the room in which the votes were being polled, and that there were arms in several rooms in the court-house. This I believe was done to intimidate the white voters who were opposed to the Hon. W. T. Clark. During the election I saw J. E. Whittlesey, the judge and chief manager of the election, who was known to be an uncompromising partisan of the Hon. W. T. Clark, stuffing the ballot-box. I am unable to say to what extent he succeeded, but I have no doubt but that I saw him stuffing the said ballot-boxes, and cramming in it tickets or ballots improperly; and I further state in this connection that

I am satisfied that after he began to count the votes after the election, that he, J. E. Whittlesey, extracted ballots from the box in which the votes were polled, because I believe that he knew that I saw him stuffing the ballot-box, and was sure to prove it by the excess of ballots. I was present and assisted in counting the votes polled, and after all were counted of the first two days' voting, it was found that the ballots had fallen short twelve votes. As an explanation of the above, the first and second days' balloting were in a box to themselves sealed up; and the third and fourth days' ballotings were in a box to themselves sealed up. At the final count it was found that the Hon. W. T. Clark had received a majority of 412 votes. I believe, and am fully satisfied, that a large number of illegal colored votes were received and cast by parties under age and non-residents of the county, and parties illegally placed on the registration list, for W. T. Clark. I further swear that I have never seen a more orderly election. The conduct of the colored police was well calculated to excite and arouse the whites, but there was a settled determination on their part to submit to everything with a view to preserve order. No intimidation of any kind was used toward any one by the whites, and in this assertion the managers of the election concurred, as I heard them express themselves repeatedly. The colored voters were left to follow their own inclinations by the whites, without even argument or persuasion being used upon them.

Question. Do you know of any fraud, violence, or intimidation being practiced by contestant or his political friends by which republicans were prevented from voting for the candidate of their choice?—Answer. I do not.

Question. Have you seen the certified copy of the report made to the Governor of the State of Texas by the officers of election, in which certain parties are charged with having intimidated voters, and in which you are reported as having said that the democrats were all armed and had ammunition enough for thirty thousand shots? State whether said report is true or false. State all facts in relation thereto.—Answer. I have seen it. I did not see any intimidation by the parties named therein of any voters. With reference to the statement said to have been made by myself, the following is the exact conversation between J. E. Whittlesey and myself. When the counting was nearly completed I remarked that I was glad that the election was over without any trouble. J. E. Whittlesey immediately remarked to me that it would not have been as easy a going game as we thought. I replied that I did not know of any armed body or organization, but I did believe that there was a strong determination on the part of the people to have a square and fair election, and to defend themselves in case of any riot, and I believe that there were forty thousand shots ready, and that I myself had seventeen.

Cross-examination:

Question. Where was it, and who was present when J. E. Whittlesey abstracted the ballots from the box, as you have stated you saw him do?—Answer. It was in the room in which the polls had been kept, and in which the counting of the ballots was being had. To the best of my recollection the following-named persons were present in the room when the abstraction of ballots took place: J. E. Whittlesey, Henry Wiener, W. H. Allen, A. K. Taylor, Henry Sherffius, and perhaps others whom I cannot now call to mind.

Re-examined:

Question. To what political party did the registrar, judges of election,

and police in attendance belong?—Answer. To the radical republican party. They were open and avowed partisans and supporters of W. T. Clark. They were opposed to the people's party—to D. C. Giddings.

T. U. LUBBOCK.

Subscribed and sworn to before me this 5th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

JOHN E. GAREY, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is John E. Garey; my age is forty-eight years; road overseer; I reside in Houston, Harris County, Texas.

Question. Do you know one G. W. Smith, who was in command of the police in Navarro County, during the late congressional election?—Answer. I do.

Question. Did you hear him make any statement of his conduct in the management of said congressional election, in Navarro County; if so, when, where, what, and under what circumstances?—Answer. I heard him, on the night of the 17th October, A. D. 1871. I was at a hotel at Groesbeck, and he was in the room adjoining mine. I heard him there telling two or three gentlemen how he sent his guards out to drum up the niggers, and finding fault with the man in charge of the election for his lack of judgment in managing the election. He then stated that when the election was over he remarked to the judge of the election that he ought to have closed the doors and gotten rid of the crowd; that before the votes were counted that he, G. W. Smith, took out of the ballot-box and threw away or tore up one hundred and sixteen democratic votes, alleging as his reason for so doing that fully that number of illegal democratic votes had been put in there during the day. This conversation occurred in the room adjoining mine. I was in my room; there was a board partition between my room and the room G. W. Smith occupied, when I overheard the conversation detailed above. There was no ceiling overhead, and the cracks in the partition were such as would enable any one to pass a letter from one room to another. I did not see Smith, but I heard his voice. I recognized him by his voice. I saw him about the hotel. I saw him every day while I was in Groesbeck. He was stopping at the same hotel I was.

Cross-examination:

Question. What was the name of the hotel at which this conversation that you heard occurred?—Answer. Zadeck's Hotel.

Question. Did you recognize the voice of any one else who was in the room with Smith?—Answer. I recognized the voice of Judge Thurmond as one of them.

Question. Are you intimately acquainted with G. W. Smith; did you ever have a conversation with him?—Answer. I am not. I have never had a conversation with him, but I have heard him talk frequently.

JOHN E. GAREY.

Subscribed and sworn to before me this 5th March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

The commission here adjourned, 6.20 p. m., until 9 o'clock a. m., March 6, 1872.

The commission met, pursuant to adjournment, at 9 o'clock a. m. March 6, A. D. 1872, and proceeded to examination of witnesses.

NATHANIEL P. TURNER, being duly sworn, answers:

Question. What is your name, your age, occupation, and place of residence?—Answer. My name is Nathaniel P. Turner; my age is thirty-eight years; my occupation, hotel-keeper; I reside in Houston, Harris County, Texas.

Question. Where were you during the late congressional election in Harris County, and the registration immediately preceding the same?—Answer. In the city of Houston, Harris County, Texas.

Question. How was said election conducted—peaceably, quietly, orderly, *fairly*, or otherwise?—Answer. It was conducted peaceably, quietly, and orderly. In regard to its fairness I cannot say. The general report and belief was that it was conducted very unfairly. The registrar, officers of election, and police in attendance belonged all to one party, the republican party.

Question. Did you hear prominent republicans say, before the certificate of election was given to Clark and before it was positively known who would get it, to whom the certificate would be given?

(To this question contestee objects, on the ground of irrelevancy to any issue raised by the pleadings.)

Answer. I did. I heard Major Ochiltree say frequently that it made no difference who was elected, or about the number of votes, that Clark would get the certificate. George T. Haswell, a member of the Texas legislature at the time, made the same assertion frequently. W. H. Dole, superintendent of the Houston and Texas Central Railroad, made a bet that Clark would get his certificate, saying that he did not care who was elected, that he was betting on Clark getting his certificate of election and taking his seat as member of Congress, third congressional district, State of Texas. Dole said that he knew what he was about, that he was not betting on the votes, that he was betting on the last count, that *they*—referring to the radical republican party—had the last count. George T. Haswell was in intimate and confidential relations with Governor Davis of Texas.

Question. Do you know one Dr. R. N. Mills, who was registrar of Grimes County, Texas? If so, state any admissions made by him as to his reasons for closing the polls in and leaving Grimes County.—Answer. In a long conversation had with him, the summing up would amount to about this: That he, through no fear of danger nor by reason of any disturbance, closed the polls in Grimes County, but because it was arranged by the party managers, viz: Clark and Newcombe, and others, to have the polls closed on any or some pretext. That some slight disturbance occurred there, and he, Mills, took advantage of it, as the first pretext and closed the polls. Mills said that in the event that there were a contest about the seat, he desired to testify what he stated above, and requested me to so state to Colonel D. C. Giddings.

Question. Have you seen the certified copy of the report made by the judges of election to the governor, in which it is charged that certain parties were intimidated? State whether said report is true or false. State all facts you may know in relation thereto.—Answer. I have seen it. So far as I know, it is false. In looking over the report I saw among the list of the intimidated the names of J. E. Carnes and C. C. Gillespie, editors of the Houston Union. They were certainly *not* intimidated. They were in my house the latter days of the election intoxicated—*drunk, I mean.* Gillespie was in Carnes's room in bed.

Carnes boarded and lodged in my house. Gillespie sent for me during the evening of the last day of the election for the purpose of asking me to have more liquor brought to him. In answer to my inquiry whether he and Carnes had voted, he replied that they had not; that they had been so much disgusted by the frauds, cheating, rascality, &c., they had seen perpetrated by their own party—the radical party—that they would not vote at all.

Question. Do you know of any illegal registration and voting at the late congressional election? If so, state instances.—Answer. I know one instance of illegal registration and voting. A boy, about fourteen years of age, by name of Sid Burroughs, a freed boy, registered, and he afterwards told me that he had voted for General Clark. This boy was in my employ.

Cross-examination:

Question. In the conversations that you had with T. P. Ochiltree and Geo. T. Haswell, as stated by you above, do you know whether they were authorized by Goveror Davis, or Jas. P. Newcombe, to make the statements so made by them?—Answer. I do not.

N. P. TURNER.

Subscribed and sworn to before me this 6th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

JOHN A. CAMERON, being duly sworn, answers:

Question. What is your name, your age, your occupation, and place of residence?—Answer. John A. Cameron; my age is forty years; my occupation, book-keeper; I reside in Houston, Texas.

Question. Where were you, where employed, and in whose employment were you, during the late congressional election in Harris County, and the registration immediately preceding?—Answer. I was in the city of Houston, Harris County, Texas; I was employed by Tracy & Quick, in the office of the Houston Union, in the capacity of book-keeper. The Union is the official journal, or was at that time the official journal, of the nineteenth judicial district of the State of Texas, and in politics was republican, and supported and advocated the claims of W. T. Clark for Congress.

Question. State anything you may know with regard to the registration and election that transpired in the said Union office during said registration or election, and, if anything, who were the parties engaged in it?—Answer. So far as the registration was concerned, during the ten days prior to the election, I know of nothing. During the election, Allen, the registrar, who was also an employé of the Union office, was in the Union office before the polls opened in the morning, and after their close in the evening. There were a number of parties who brought registration papers to the Union office, and left them sometimes with Mr. W. H. Allen, the registrar, and also with J. S. Batchelder, and another party whose name I do not know. I do not know the names of the parties leaving their papers, as I understood, for comparison with the registration books. Saw papers delivered or returned to various parties during the election. These examinations or comparisons with the books were made in the evening, at which time I was not in the office.

Question. How many parties did you see come to the office of the

Houston Union for the purposes stated in your preceding answer; how many papers did you see delivered to such parties; when did these parties come to the office of the Houston Union to deposit their papers; when were these comparisons made; and when were the papers returned to the parties and by whom?—Answer. I suppose there were as many as twenty-five or forty during the first two days of election, and for the balance of the time of election I suppose the number was less; I saw as many papers delivered as parties who had left them—I cannot say the exact number; these parties came in the day-time, usually after the polls were opened, and left their papers; these comparisons, from what I heard stated, must have been made during the night-time; the papers, my impression is, were returned the day after they were left at the office; the principal part of the papers were returned by Mr. J. S. Batchelder and a mulatto man, whose name I do not know.

Question. State whether, from the admissions and statements of Wm. H. Allen, J. S. Batchelder, or other parties, and from what you saw and heard, there was any registration of voters during the said election, and, if any, who said voters were—white or colored?—Answer. I do not know from any admissions or statements of William H. Allen, J. S. Batchelder, or others. I cannot say from what I saw that there was any registration of voters during the said election. I had my suspicions that all was not right in the registration, from the fact that the board of revision and appeals, which was composed of the registrar and judges of election, should have attended to those matters which Registrar Allen, during the election, did—I mean those acts done by Registrar Allen and detailed in my answer to third interrogatory.

Cross-examination:

Question. Do you know of any tickets bearing the name of D. C. Giddings being fraudulently taken from the ballot-boxes by the officers of election, and others bearing the name of W. T. Clark placed in their stead?—Answer. I do not.

J. A. CAMERON.

Subscribed and sworn to before me this 6th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

THEODORE KOSSE, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is Theodore Kosse; my age is sixty years; occupation, civil engineer; I live in Houston, Texas; I have lived here twenty-six years.

Question. Do you know of any parties being illegally registered in Harris County, Texas, during the late registration immediately preceding the late congressional election? State all you may know in relation to the late registration.—Answer. On the second day of election I passed the corner where the Union printing office is, about 2 o'clock p. m., and I saw on the platform of the stairs leading to the upper story of the building in which the Union office was situated, Mr. J. S. Batchelder and four or five colored men, of whom three appeared to me to be country negroes coming from their work; two others appeared to me to be common "drummers." Mr. Batchelder gave to two of the three that were country negroes papers freshly printed, which I candidly believe were registration papers; they were not yet folded; in size and appearance they resembled registration papers. Mr. Batchelder folded them

up before he gave them to the negroes in one hand, and into the other hand he gave them a voting ticket—colored tickets. This is all I saw. My intention was to seize the parties, and examine the papers, but fearful that such action would bring on a disturbance of the peace, I refrained from doing so, as it was the determination of the whites to avoid all difficulties. When I was registered I saw a man passing out of the registration office, and I noticed in the book in which my name was entered that three lines were left empty, nothing written on them. These three lines were between my name and the name next above mine. I believe that Mr. Batchelder is a member of the radical party; he always acts with them.

Cross-examination:

Question. Do you know the names of any of the colored men whom you saw talking with Mr. Batchelder as above stated, and do you know if they lived in the county or not?—Answer. I do not know the names, nor do I know if they lived in this county or not.

TH. KOSSE.

Subscribed and sworn to before me this 6th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

WILLIAM H. CRANK, being duly sworn, answers:

Question. What is your age, profession, and place of residence?—Answer. I am thirty-eight years of age; I am by profession an attorney at law; and I reside in the city of Houston, Harris County, Texas.

Question. Where were you during the late congressional election in Harris County for member of Congress, and the registration immediately preceding the same?—Answer. I was in the city of Houston, Harris County, Texas, my place of residence and business.

Question. State any facts within your knowledge showing the manner in which said registration and election were conducted by the registrar and judges of election; the political party to which the registrar and officers of election belonged; by whom appointed; whether or not the same was conducted in the interest of either party, and which party.—Answer. By special request I attended about the court-house of Harris County, at which place registration was conducted, during the last seven days of registration and during the four days of the election of October, 1871, for Congress. I had the best opportunities of seeing, and was a close observer of much that passed. The registrar, William H. Allen, the judges of election, J. E. Whittlesey, Henry Wienar, and John Coss, the latter a Mexican carpet-bag negro, and all of the officers and police in attendance, the most of whom were negroes, were all radicals and partisans and political supporters of W. T. Clark. It was patent to every one that both the registration and the election were conducted for the single purpose of securing the election of Mr. Clark. The plan seemed to be to exclude as much of the white vote as possible, and to secure as large a negro vote as possible. It was generally known that the entire negro vote, with very little exception, would be cast for Mr. Clark. This was understood among the supporters of both Mr. Clark and Mr. Giddings; and it was the universal determination, in no way, by persuasion or otherwise, to attempt to influence or interfere with the negro vote. As one of the executive committee of this county, I know this; and I know that it was strictly adhered to by the democrats before and during

the election. It was, in fact, understood and evident that the radicals by their course had reduced the political situation to a contest between the white and the black race; and it was determined upon to permit the negro to follow his own unbiased views. The registration was most unfairly and fraudulently conducted. It was conducted almost with the secrecy of an inquisition. But one person at a time was permitted to enter the room for registration. The doors were closed and strictly guarded by armed negro police, whose chief business seemed to be to hunt up negro voters for registration and insult white men. I was frequently in the room to vouch for white persons offering to register. Every white person offering to register not personally known to Mr. Allen, the registrar, was required to produce two witnesses, as vouchers. Many of these were old citizens, who had lived in Texas many years, who had rode not less than thirty miles to register, and were unprepared with the two witnesses required, and a number of them went away without registering. Many of them were put to great trouble and inconvenience to find the required witnesses. The registrar refused to register them upon their oaths as to age, residence, &c. I observed that this rule was not applied to the negroes. No questions were asked them. All of them were registered without inquiry into their qualifications. And I saw many registering and voting who, from appearance and information from the best sources, were unquestionably not twenty-one years of age. The registrar rejected from registration all foreigners who had declared their intention to become citizens and had resided one year in the State. Of these, about one hundred were refused registration and not allowed to vote. I ascertained this from actual count. This rule was relaxed, however, in favor of any such who gave information of their intention to vote for Clark. I know of several who were at first refused who afterward, upon a second application and a declaration of their intention to vote for Clark, were registered. This was done by a number who did it under advice, for the purpose of trying the registrar. I also attended about the door of the registration-room, and inspected the numbers of the certificates of registration. I frequently discovered that there was a discrepancy or skip of the numbers between the time of adjournment and reopening registration. For instance, supposing the last number to have been 4,500 on closing for dinner, on opening after dinner it might be 4,550, showing a skip of fifty in the numbers. This occurred a number of times, amounting in all to several hundred numbers. On the morning of the last day of registration, it was announced by the registrar that registration would not open until 1 o'clock of that day, upon the pretext that the printed certificates used by him had given out. Nearly all the negroes, it was generally believed, had registered. A number of democrats were in the city to register, who had rode from twenty to thirty miles, and were unwilling to wait until 1 o'clock and then be, in all probability, crowded out, and I personally know that a large number of these left for their homes without registering. The registrar was remonstrated with, and begged to open registration and register these men, but he refused. Upon inquiry of printers, they informed me that five hundred of the blanks could be printed in one hour, and certain gentlemen had the blanks printed and offered them to the registrar, but he refused to receive them or open the office until between 1 and 2 o'clock, by which time many democratic voters had left the city without registering, who never returned or registered.

(The above question and answer both objected to by contestee on the ground that the question is irrelevant to any issue raised by the pleadings, and that the answer is irresponsive to the question.)

Question. Do you know of persons legally entitled to vote being refused registration and the right to vote? If so, state for what cause, what color, and, if you know, to which political party did such parties belong, and the number thus prevented from registering and voting.—Answer. I do; I know that about one hundred foreign-born persons, all of whom had lived in Texas more than one year, and many of them for many years, some of them prior to annexation, who had declared their intention to become citizens of the United States, and who were entitled to register and vote under the constitution of Texas, were refused registration and not permitted to vote. I took the number and talked with most of these, and am fully satisfied that they were supporters of Mr. Giddings. I also know of a number of others, native-born citizens, who were clearly entitled to register, who were refused registration, who swore to their age and residence, and whose respectability was vouched for; but they were informed that their oaths were insufficient. The whole plan and purpose of the registrar and officers of election was, in my opinion, based upon observation, to reduce the white vote and increase the negro vote, which it was understood and believed would be cast in a body for Clark. The attention of the registrar and board of revision and appeals was called to the law which some time before had been published with the election order at the court-house door, which clearly admitted the right of such to vote; but we were informed that there was other law which was never shown to us. I am of the opinion that this change of tactics resulted from ascertaining that the German vote would not be cast for Clark, as they claimed and believed it would be in the outset of the canvass, and it was determined, in my opinion, to disfranchise as many of them as possible.

(Above answer objected to on the ground of irrelevancy to any issue raised by the pleadings, and because witness states opinions, not facts.)

Question. Do you know of any violence or intimidation practiced by W. T. Clark, or his political friends, whereby voters were prevented from voting for D. C. Giddings? State all the facts within your knowledge.—Answer. I was a close observer of the whole of the election. The whole machinery of the election was so managed as to keep white voters from the polls if possible. The polls, and all around the court-house, was guarded by numbers of armed police, mostly negroes, who were most insolent and insulting to the democrats, and seemed determined by their conduct to provoke a conflict, which nothing but the utmost forbearance on the part of the whites prevented. Negro policemen, heavily armed, constantly inspected the negro voters, who were formed in line to approach the polls, examined their tickets, and took from those having democratic tickets their tickets, tore them up, and with threats and curses forced a Clark ticket upon them and forced them to the polls. A colored voter in the line, and just behind me, was so treated; and I saw a number of such cases. White men were not allowed to look at the tickets of colored voters or even to talk to them about their votes. If any had the temerity to do so, they were threatened and cursed by brutal and half-intoxicated negro policemen heavily armed. A well-known radical policeman stood at the place of voting, and while it was strictly forbidden by law, under a heavy penalty, for any one to take a ballot from the hands of a voter, he passed a large majority of the ballots through his hands to the officers of the election. In my opinion many negroes would have voted of their own accord for Colonel Giddings had they dared to do so; but they were afraid of the violence of their own race, who made the direst threats against any one who dared to do so. I have seen a number of elections, but I have

never before seen one so conducted. No democrats were allowed to approach near the polls. No one was allowed to challenge the right of any one to vote, although many illegal voters were seen approaching the polls. The polls were in the possession of an armed police, all of whom were radicals and supporters of Mr. Clark. In addition to this, it was a known fact that several cases of arms had been sent from Austin to Houston and delivered to J. E. Whittlesey, judge of election, to be placed in the hands of the negroes. This excited great alarm and apprehension on the part of all good citizens, while, under the laws of the State, citizens were prohibited from carrying arms, under the heaviest penalties, except police and peace officers.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or by his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. None whatever; on the contrary, I venture to assert that a more quiet and peaceable election was never held in any place. It was determined upon by the whites to submit to anything rather than a difficulty should occur; and never have I seen greater prudence or forbearance on the part of any people. They left the negroes to themselves, and determined to submit to anything rather than have a conflict, believing, as they did, that it was the desire and design of the radicals if possible to provoke a conflict; and the election orders of the governor, unjust, arbitrary, partisan, and unheard of, as they were, were obeyed and submitted to by the people.

Question. Have you seen the certified copy of a report made by the registrar and judges of election in Harris County to the governor, in which yourself and others are charged with having intimidated voters? If so, state the facts, and whether or not said report is true, and the character and standing of the parties making said report in the community in which they live.—Answer. I have seen the precious document in question, and have examined it at my leisure. I know all the men mentioned in the report as intimidating voters and hooting and jeering at candidates, and I saw them every day and often on each day of the election. I saw them do nothing that is charged against them. The most of them are our most prominent and worthy citizens, and I believe them to be incapable of the conduct charged upon them in said report. So far as I am concerned, I pronounce it a base lie and its authors as guilty of perjury. No one labored more earnestly than I did to preserve the peace. I counseled all to the greatest caution and forbearance. I even offered myself as a policeman, to aid, if necessary, in preserving the peace. No one ever heard of any intimidation by myself or any of the parties charged, until the report in question was unearthed and brought to light. It was made to subserve a base political end, and its authors, I have no doubt, never expected it to be brought to light, to be confronted with the truth. I know W. H. Allen, J. E. Whittlesey, and John Coss, the authors of the said report. Allen is a man of no standing of any sort. He is commonly reputed to be living a life of the most shameful character. It ought to be enough to say of Whittlesey that he is a carpet-bagger, who has evinced the usual insane desire of all such animals for office and its spoils. He was said, a few years ago, to be poor. He has held office, by appointment, for about three years, and he is now said to be rich, and lending large sums of money. Rumor informs me that he invested about $3,000 in a loan to the Hon. W. T. Clark during the late canvass. He now holds the offices of treasurer of the county, alderman of the city of Houston, and I am informed that he is in some way connected with the public schools; all of which

he holds by appointment. The people here would not elect to or trust him in any office. John Coss is, I am informed, a Mexican negro carpet-bagger, who has not long resided in this section. This ought to be enough to say of him.

(Question and answer objected to, on the ground of irrelevancy, by contestee, who declined to cross-examine.)

WM. H. CRANK.

Subscribed and sworn to before me this 6th March, A. D. 1872.

L. THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

The commission here adjourned *sine die*, so far as Harris County was concerned. Time of adjournment, 12.30 p. m., March 6, 1872.

And I, Leslie Thompson, jr., do further and hereby certify, under my hand and seal of office, that, during the whole time occupied in taking the foregoing testimony, the contestant, D. C. Giddings, and his attorney, W. H. Crank, were present, and that A. C. Rogers, esq., the counsel for contestee, was likewise present during the whole time occupied in taking said foregoing testimony, and that the whole of said testimony was so taken in the presence of said contestant and his attorney, and in the presence of said A. C. Rogers, counsel for contestee; and I do further certify that the witnesses George Goldthwaite, William R. Baker, Judge James Masterson, W. C. Wagley, and J. A. Cameron, in my presence, and in the presence of contestant, and in the presence of A. C. Rogers, counsel and attorney for contestee, and with the consent of and at the suggestion of both contestant and A. C. Rogers, attorney for contestee, wrote a portion of their testimony with their own hands; and that W. H. Crank, another witness, with the consent of contestant and A. C. Rogers, attorney for contestee, wrote the whole of his testimony with his own hand; and I do further certify that the direct and cross-interrogatories were propounded to the different witnesses by the contestant or his attorney, and by the contestee's counsel, A. C. Rogers, esq., and were by me reduced to writing, and then read carefully and plainly to the witness to whom propounded; and further, that all the answers of the different witnesses to the interrogatories and cross-interrogatories to them propounded were, with the exception of the answers of George Goldthwaite, William R. Baker, Judge James Masterson, W. C. Wagley, J. A. Cameron, and W. H. Crank, as above stated, by me reduced to writing in the presence of contestant and in the presence of A. C. Rogers, attorney for contestee; and I do further certify that the said witnesses were all of them individually, in the presence of contestant and attorney for contestee, by me first sworn to tell the truth, the whole truth, and nothing but the truth, in their answers to the different interrogatories and cross-interrogatories about to be to them propounded by contestant and contestee; that, after their respective answers were reduced to writing, I read to them in a loud voice their answers, and that thereupon they, in my presence and in the presence of contestant and A. C. Rogers, attorney of contestee, signed their names to their said answers, and were by me again sworn that, in their answers to the direct and cross-interrogatories to them propounded, they had told the truth, the whole truth, and nothing but the truth. I do further certify that all the erasures and interlineations occurring in the written questions and answers in foregoing testimony were made before the witnesses subscribed their names to their respective depositions, and were made with their knowledge and consent and with the knowledge and consent of

contestant and of A. C. Rogers, attorney of contestee; and I do further certify that all objections made to questions and answers by contestant or contestee were written down by me, and read to the party making the objection, and that the objections, as written by me in foregoing deposition, are the objections made by the party stated by me as having made them; and I do further certify that at half past 12 o'clock, noon, of March 6, A. D. 1872, the contestant closed his testimony, and that contestant then and there notified, in my presence and hearing, A. C. Rogers, counsel for contestee, the fact of his having so closed, and notified A. C. Rogers, counsel for contestee, that he might then begin, under the present commission, to take testimony on behalf of contestee, and that then and there A. C. Rogers, counsel for contestee, declined to take any testimony on behalf of contestee under the present commission in Harris County, Texas; and I do further certify that D. C. Giddings, contestant, in my hearing and in my presence, notified A. C. Rogers, counsel for contestee, that he (contestant) should require notice of the time of taking testimony by contestee in Harris County, and that, unless he, A. C. Rogers, attorney for contestee, now proceeded to take testimony on behalf of contestee, he (contestant) would regard the agreement under which this testimony was taken at an end. I do further certify that A. C. Rogers, counsel for contestee, then and there agreed and promised that he would give the required notice of the time when he would take testimony on behalf of contestee to contestant or his attorneys, and that thereupon contestant served a written notice upon A. C. Rogers, attorney for contestee, a copy of which notice is hereto attached and made a part of this record; and I do further certify that the printed copies of orders and instructions, (shown to the witness Goldthwaite, and which he identified by writing his name on the back thereof,) in the record set forth, are the same as shown to the witness Goldthwaite, and which he identified in manner as above stated, and that, for further identification, I wrote my name and official position on the back of said printed copies of orders and instructions; and I do further certify that I am not of counsel or attorney for either contestant or contestee and that I am not interested in the event or final issue of this suit or contest.

In testimony whereof I have hereunto subscribed my name and affixed my seal of office this 6th day of March, A. D. 1872.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

No. 18.—*Depositions taken in Galveston County.*

D. C. GIDDINGS
vs.
W. T. CLARK.

In the matter of the contested election case from third congressional district of Texas.

It is agreed that contestant shall commence taking testimony in the contested election case wherein D. C. Giddings is contestant and W. T. Clark contestee, now pending before the Congress of the United States, at Galveston City, in said third congressional district, before Leslie Thompson, United States commissioner for eastern district of Texas, on the 8th day of March, 1872, and continue from day

to day until he shall finish, hereby waiving notice of names of witnesses, time, and all formalities.

D. C. GIDDINGS,
Contestant.
A. C. ROGERS,
Attorney for Clark, Contestee.

HOUSTON, *March* 4, 1872.

THE UNITED STATES OF AMERICA,
Eastern District of Texas, ss:

The President of the United States to the marshal of the United States for the eastern district of Texas, or any of his deputies:

You are hereby ordered to summon C. B. Sabin and J. M. Camp, if to be found in your district, to be and appear at my office in the city of Galveston, on Saturday, March 9, A. D. 1872, 10 o'clock a. m., to answer certain interrogatories to be then and there to them propounded in the contested election case from the third congressional district of Texas, in which D. C. Giddings is contestant and W. T. Clark is contestee. Herein fail not, and due return make of this subpœna according to law.

Witness Leslie Thompson, jr., United States commissioner, eastern district of Texas, with my seal of office, this 8th day of March, A. D. 1872.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Received this writ March 8, 1872, and executed same March 8, 1872, by summoning the within-named witnesses, as I am commanded to do.

WM. E. PARKER,
United States Marshal,
By DAN. F. MORTON,
Deputy United States Marshal.

THE UNITED STATES OF AMERICA,
Eastern District of Texas, ss:

The President of the United States to the marshal of the United States eastern district of Texas, or any of his deputies:

You are hereby ordered to summon Captain E. McCormick, if to be found in your district, to be and appear before me, the undersigned authority, forthwith at my office in the city of Galveston, to answer certain interrogatories to be then and there propounded to him in the contested election case of D. C. Giddings *vs.* W. T. Clark, from third congressional district of Texas. Herein fail not, and due return make of this subpœna according to law.

Witness Leslie Thompson, jr., United States commissioner, eastern district of Texas, and my seal of office.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Received this writ March 8, 1872, and executed same March 8, 1872, by summoning the within-named witness, as I am commanded to do.

WM. E. PARKER,
United States Marshal,
By DAN. F. MORTON,
Deputy United States Marshal.

UNITED STATES OF AMERICA,
Eastern District of Texas, ss:

The President of the United States to the marshal of the United States eastern district of Texas, or any of his deputies:

You are hereby ordered to summon Samuel Dodge and Johnson Reed, if to be found in your district, to be and appear before me, Leslie Thompson, jr., United States commissioner, eastern district of Texas, at my office in Ballinger & Jack's building, Post-office street, Galveston, Texas, at 4 o'clock p. m., March 8, 1872, then and there to answer certain interrogatories to them and each of them then and there to be propounded in the contested election case from third congressional district, State of Texas, of D. C. Giddings *vs.* W. T. Clark. Herein fail not, and due return make of this subpœna according to law.

Witness Leslie Thompson, jr., United States commissioner, eastern district of Texas.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Received this writ March 8, 1872, and executed same March 8, 1872, by summoning the within-named witnesses, as I am commanded to do.

WM. E. PARKER,
United States Marshal,
By DAN. F. MORTON,
Deputy United States Marshal.

OFFICE OF UNITED STATES COMMISSIONER,
Eastern District of Texas, Galveston, March 8, 1872.

Pursuant to application, notice, and agreement in the matter of the contested election from third congressional district of Texas, wherein D. C. Giddings is contestant and W. T. Clark is contestee, commission met in the office of Leslie Thompson, jr., United States commissioner in and for the eastern district of Texas, on Post-office street, Galveston, Texas, to take the testimony in behalf of contestant. Present, Leslie Thompson, jr., United States commissioner, eastern district of Texas; D. C. Giddings, contestant; and A. C. Rogers, attorney for contestee. The following-named witnesses were introduced and sworn, and made answers to the several interrogatories to them propounded, as follows:

R. R. LAWTHER, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is Robert R. Lawther; my age is thirty-six years; grocery merchant my occupation; I reside in Galveston, Galveston County, Texas.

Question. Where were you during the late congressional election in Galveston County and during the registration immediately preceding?—Answer. In Galveston, Galveston County.

Question. State all the facts within your knowledge showing the manner in which said election and registration were conducted; whether or not the same was in the interest of either party, and which party; the political party to which the officers and managers of election and the police in attendance belonged.—Answer. I was present during two days and a half of the election, having been selected by the judges of election as one of the citizens to be present at the polls during the election under the Governor's proclamation. During the election three

hundred and seven foreigners, who had been duly registered, whose names were upon the registration-books furnished the judges of election by the registrar of election, presented themselves to vote. Their votes were received by the judges of election, but placed in the rejected box, and in making the final count these votes were not counted. All these foreigners had their first papers or certificates issued from the proper authorities, showing that these foreigners had made their declaration of intention to become citizens. Their votes were rejected, not upon any ground of being improperly registered, but solely upon the ground that they had no right to vote, because they had not their full naturalization papers. I was present at the final count, and these three hundred and seven votes were all for D. C. Giddings. Fully one hundred and fifty foreigners, who had only their first papers or certificates showing that they had made their declaration of intention to become citizens of the United States, presented themselves to vote; but when told by the judges of election that their votes would not be counted, refused to have their votes placed in the rejected box and went away without voting. All these held Giddings tickets in their hands. All these were duly registered and their names were on the registration-books furnished by registrar to judges of election. The officers of election all belonged to the radical wing of the republican party and were partisans and supporters of W. T. Clark. So were the police in attendance on the polls during the election, both State police and special police. The judges of election refused to count the votes placed in the rejected box, and the box containing the rejected votes was placed in the possession of registrar, and was afterward opened in the presence of the registrar and the ballots therein counted in the presence of the registrar by James Storley, James L. McKeen, and myself. The count of the ballots in the rejected box showed this result: Three hundred and seven votes for D. C. Giddings, three votes for W. T. Clark, and one vote for L. W. Stephenson. The aggregate vote in the rejected box corresponded with a tally I kept during the election. The other citizens who were present under the governor's proclamation were ——— Jordan, (representing L. W. Stephenson,) and N. W. Cuney, (representing W. T. Clark.) Both of these were colored.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant, or any of his political friends, whereby republicans were prevented from voting for the candidate of their choice?—Answer. I do not. The election was conducted in a peaceable and orderly manner.

Question. Do you know of any violence or intimidation practiced towards any of the officers of election whereby they were prevented from discharging their duties?—Answer. I do not.

(The attorney for contestee declined to cross-examine the above witness.)

Subscribed and sworn to before me this 8th day of March, A. D. 1872.

R. R. LAWTHER.

JESSE STANCEL, being duly sworn, answers:

Question. What is your name, age, occupation, place of residence?—Answer. My name is Jesse Stancel; my age, forty-two years; I am a lawyer; I reside in Galveston, Texas.

Question. Where were you during the late congressional election in Galveston County, and the registration immediately preceding the

same, and what official position did you hold, and by whom were you appointed?—Answer. I was in Galveston. I was registrar of voters for this county. I was appointed by Governor Davis.

Question. Did you issue certificates of registration to parties not legally entitled to receive them?—Answer. I did not.

Question. Were you present at the final count of ballots at said election, and what was the result?—Answer. I was. The result was: D. C. Giddings, 1,693; L. W. Stephenson, 329; W. T. Clark, 304; D. G. Giddings, 1; G. C. Giddings, 1; and Alderman Baker, 1.

Question. Was there or not a "rejected box" or box for rejected votes, and were the ballots therein included in above count, and what was done with said box? Were the ballots counted in said box? If yea, by whom, and what was the result?—Answer. There was a box for rejected votes, in which a number of votes were put. They were not counted by the judges of election. They refused to count them. The box was turned over to me for safe-keeping for the time being. It was locked when turned over to me by the judges of election. Over the aperture in the top through which the ballots were passed I tied a piece of white paper. I then asked Colonel Lawther to mark the paper, so that he might know hereafter, if need be, if it had been tampered with. He placed some marks on it with pen and ink. I then took the box to Jockusch & Co.'s banking-house, and deposited the same in his vault. It remained there for some week or two afterwards, when I took it away to my office, where it was opened by myself, in the presence of R. R. Lawther, James Sorley, and J. L. McKeen, and the contents counted by myself and Messrs. Lawther, Sorley, and McKeen, and the result was as follows: For D. C. Giddings, 307; W. T. Clark, 3; L. W. Stephenson, 1.

Question. To what political party did the officers of election and the police in attendance at the polls belong?—Answer. To the republican party. They were the political friends and supporters of General Clark.

Question. What were the general features of the election as to peace and quiet? Was there any indication of a special desire to avoid disturbance of every kind?—Answer. I do not think I ever saw a more peaceable and quiet election. The disposition of the people seemed to be to avoid everything that would tend to or savor of disturbance in any way.

Question. Was there or not ample opportunity afforded for more votes to have been cast at the election?—Answer. It occurred to me that the election was so conducted as to retard rather than to expedite the voting. My impression is that the judges of election could have conducted the election in a more expeditious manner, and that they could have afforded greater opportunity to vote. This retarding of the voting was on the part of the judges of election, not the people. My impression is that a larger number would have voted had the election been conducted more expeditiously.

Question. Was General W. T. Clark the preference of the republicans in this congressional district, or Galveston County, as a candidate for the position for which he was aspiring in this election before a nomination by a convention at Houston?—Answer. I can only answer as to that portion of the district outside of Galveston from my information, and say that he was not. So far as Galveston County is concerned, I am positive that he was not. My own conviction is that neither Clark nor Stephenson was the choice of the republicans for this district, and neither would have obtained the nomination had there been a fair expression of opinion.

(A. C. Rogers, attorney for contestee, here objected to both question and answer, as being immaterial and wholly irrelevant to any issue raised by the pleadings.)

Question. Do you know that General Clark's friends, or any in particular, circulated the report at the time of the election that Stephenson had withdrawn from the canvass?—Answer. Such a report was circulated. I do not know who circulated it, but the general impression was that it was Clark's friends who had circulated the report. I saw a printed circular purporting to announce Stephenson's withdrawal from the canvass.

Cross-examination:

Question. Do you know if the printed circular referred to was issued by the authority of General Clark or any of his supporters?—Answer. I do not know by whom it was issued or by whose authority.

Question. Had the election been conducted with more expedition, would there have been any greater number of votes cast? and, if yea, for whom would those votes have been cast?—Answer. I cannot answer a question of that character positively. I can only give my impression and opinion, and in giving that I say that had the election been conducted with more expedition, there would have been a much greater number of votes cast. My opinion is that all or nearly all of the votes that would have been cast would have been for Colonel Giddings.

Question. Were you at the polls when they finally closed? If so, were there any voters offering their votes whose votes were not received?—Answer. I was there when the polls closed. Everything was very quiet, and but few there except those interested in knowing the result of the election. I do not remember of any voter offering to vote at that time whose vote was not received.

Question. Were the register and judges of election supporters of W. T. Clark or L. W. Stephenson?—Answer. The judges of election were, as I understood from their declarations and actions, supporters of W. T. Clark; as to the registrar, he was not an ardent supporter of either. There was a disposition to foist General Clark upon the party whether they desired him or not, and the registrar regarded Clark and Stephenson as "six and six," and so took no active part for either.

Re-examination:

Question. What reasons were assigned by the judges of election for their refusal to count the votes in rejected box after they had been received by them?—Answer. Their reason was, that parties whose ballots had been placed in the rejected box had not full naturalization papers, but only had their first papers or certificates, showing that they had declared their intention to become citizens, and further, that some of these parties had taken their papers out before the clerk of the court in vacation, and not before the judge in term time.

JESSE STANCEL.

Subscribed and sworn to before me this 8th March, A. D. 1872.

LESLIE THOMPSON, Jr.,
United States Commissioner, Eastern District Texas.

JAMES L. MCKEEN, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is James L. McKeen; my age is fifty-seven years; I am a merchant; I reside in Galveston.

Question. Where were you during the late congressional election in

Galveston County, and during the registration immediately preceding the same?—Answer. In city of Galveston.

Question. Were you present at a count of the rejected votes as made before Jesse Stancel, registrar for Galveston County, soon after the recent election for member of Congress, third congressional district, in this county? If yea, who were present besides yourself, and state what was the condition of the box from which the ballots were taken, and state the result of such count?—Answer. I was present at the time inquired of. There were present, beside myself, R. R. Lawther, Jesse Stancel, and James Sorley. The condition of the box was, that it was in good order; had paper over the top, and was locked. The result of the count was 307 for Giddings, 3 for Clark, and 1 for Stephenson.

Question. What were the general features of the election during the days of election as to peace and quiet; was there, or not, any special evidence of desire to avoid disturbances of every kind?—Answer. The election was as peaceable and quiet an election as ever I have seen; there was a general desire and disposition on the part of the people to avoid disturbances of every kind.

Question. Did you hear any of the prominent supporters of General Clark express themselves as to who would get the certificate of election regardless of the votes cast? State who, and what was said.—Answer. I did. I cannot state any individual expression from any particular one, but the declarations that Clark would, in any event, get the certificate, was indulged in generally by his supporters; I mean Clark's supporters.

Cross-examination:

Question. Do you know that these declarations were made by persons having authority from Governor Davis or James P. Newcombe, secretary of state, for making such declarations?—Answer. I do not; nor do I remember names of persons making these declarations. They were made by the supporters of Clark generally.

JAMES L. McKEEN.

Subscribed and sworn to before me this 8th day of March, A. D. 1872.

LESLIE THOMPSON, Jr.,
United States Commissioner, Eastern District Texas.

EPHRAIM JORDAN, being duly sworn, answers:

Question. What is your name, your age, your occupation, and place of residence?—Answer. My name is Ephraim Jordan; my age is thirty-four; I am city policeman; I reside in Galveston, Texas.

Question. Where were you during the late congressional election in Galveston, and during the registration immediately preceding the same?—Answer. In Galveston, Galveston County, Texas.

Question. Do you know of any act of fraud on the part of the political friends of W. T. Clark during the conduct of the recent congressional election in this county whereby there was anything done to control votes in favor of W. T. Clark and against any other candidate?—Answer. I do. I know that the State police who were stationed at the polls at the court-house tore up Giddings and Stephenson tickets whenever they could get hold of them. I know that the State police, who were the supporters of Clark, compelled voters either to vote for Clark or not vote at all. I mean that if some voters did not vote for Clark they would not be permitted to vote at all. I heard them tell voters (colored

voters) that unless they voted for Clark it would be no use for them to come to the polls; that Clark would be bound to go to Congress, it did not matter who was elected. I saw the State police and the runners for Clark take Stephenson tickets away from colored voters and tear them up.

Question. What were the general features of the election as to peace and quiet, and what seemed to be the disposition of the people in regard to avoidance of disturbances of every kind other than the acts of the State police and Clark's friends?—Answer. There was no disposition on the part of the people to create disturbances. The State police created more disturbances than anybody else. With the exception of the disturbances created by the State police the election was a very peaceable and orderly one.

Question. Do you know whether General Clark was the preference of the republicans of the county for Representative in Congress prior to his nomination at Houston? if so, state.—Answer. He was not. I know it by the general expression of the leading members of the party, such men as Judge C. B. Sabin, Samuel Dodge, J. O. Stephenson, James A. McKee, Mr. Camp, J. Reed, and a number of others whom I cannot recall to mind; and I know it also from the general expression of the republicans.

(The counsel for contestee here objected to above question and answer upon the ground of irrelevancy to any issue raised by the pleadings.)

his
EPHRAIM + JORDAN.
mark.

Subscribed and sworn to before me this 8th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

The commission here adjourned at 1.30 p. m. to 3 o'clock p. m.

GALVESTON, *March* 8, 1872—3 o'clock p. m.

Commission met pursuant to adjournment. Leslie Thompson, jr., United States commissioner, eastern district of Texas, D. C. Giddings, contestant, and A. C. Rogers, attorney for contestee, present, and proceeded to the examination of witnesses.

WILLIAM MASTERSON, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is William Masterson; my age is thirty-seven years; I am a farmer; I reside in Brazoria County, Texas.

Question. Where were you during the late congressional election, and the registration immediately preceding the same?—In the town of Brazoria, Brazoria County, Texas.

Question. How was the election conducted; peaceably, quietly, orderly, fairly, or otherwise?—Answer. It was conducted peaceably, quietly, and fairly, so far as I know.

Question. To which political party did the officers of election and the police in attendance at the polls belong?—Answer. To the radical republican party, and were the supporters and partisans of W. T. Clark.

Question. Do you know of any fraud, violence or intimidation practiced by contestant or any of his political friends whereby republicans were prevented from voting for the candidate of their choice?—Answer. I do not.

Question. Do you know of any fraud, violence, or intimidation practiced by contestant or any of his political friends whereby the officers of elec-

tion were interfered with or disturbed in the discharge of their duties?—Answer. I do not.

WM. MASTERSON.

Subscribed and sworn to before me this 8th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

JOHNSON REED, being duly sworn, answers:

Question. What is your name, your age, your occupation, and place of residence?—Answer. My name is Johnson Reed; my age is forty-six years; I am clerk of the district court, Galveston County; I reside in Galveston, Texas.

Question. Where were you during the last congressional election in Galveston County, and during the registration immediately preceding the same?—Answer. In Galveston County during the election; during the registration immediately preceding the election I was in Galveston part of the time.

Question. What were the features of the recent election for Congress in this third district, as regards peace and quiet, in the county of Galveston? Was there, or not, any special evidence of a desire to avoid disturbances of every kind?—Answer. There was no disposition on the part of the people to create any disturbances—none that I was capable of discovering; their desire seemed to me to be to avoid all disturbances. The election, so far as my means of observation went, was peaceable and quiet. I was at the court-house, where the election took place, nearly all the time; my office was there.

Question. Do you know of any undertaking on the part of General Clark or his political friends, by fraud, or threats of loss of employment or position, to influence votes in the recent election for Congressman in this third district in favor of General Clark and against other candidates? If so, recite such instances with details of particulars.—Answer. I do not, of my own knowledge, know of such instances. I have heard of them. My position as clerk of the district court of this county was threatened. In Brazoria County, some time prior to the election, L. W. Stephenson and myself held a meeting at the Shiloh school-house in the interest of L. W. Stephenson as candidate for Congress from third congressional district of Texas. We met General W. T. Clark and Senator G. T. Ruby. We agreed, prior to the opening of the meeting, that we would divide the time of speaking with Mr. Clark and Mr. Stephenson, the two candidates. I spoke in the meeting, advocating the claims of Stephenson. Mr. Ruby replied to me in the interests of General Clark, and in the course of his remarks said that I was a great fool to pursue the course I did; that I would jeopardize the position that I held—the office of district clerk, Galveston County—and that, too, to a greater extent than I was aware of. That was the only threat made to my face by any man holding office in the State or county that I remember, but I know that it was the general talk that I would be removed if I persisted in the support of L. W. Stephenson for Congress. These rumors and reports caused me much uneasiness and anxiety, until finally I determined that I would not be further annoyed by them, and would let things take their course, and that if I was removed for the exercise of what I deemed my right, I would stand it. These threats of removal I deemed were made for the purpose of causing me either to abandon the advocacy of L. W. Stephenson and to support the claims of General Clark, or to cause me to remain neutral. These rumors and threats were

made by the supporters of General W. T. Clark. I know that Clark's friends and supporters generally talked of removing all office-holders who did not support General Clark.

Question. To what political party did the officers and managers of election and the police in attendance belong? And did they use their position and influence to advance the interests of the candidate of their party?—Answer. They belonged to the republican party, and generally were the supporters of General Clark. I believe they used their position and influence to advance the interests of General Clark.

Cross-examination:

Question. Do you know Jesse Stancel and R. R. Lawther? What position did they hold, if any, during the election and registration, and what candidates for Congress did they support?—Answer. I know Jesse Stancel. I have seen R. R. Lawther; I am not acquainted with him. Mr. Stancel was registrar of voters for Galveston County. I do not know positively if Mr. Lawther held any position during the election. Mr. Stancel, I believe, supported Mr. Clark. I do not know what ticket he voted, but I would judge from his actions during the registration and election that he voted for General Clark. I cannot say what candidate Mr. Lawther supported.

JOHNSON REED.

Subscribed to and sworn before me this 8th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Re-examination:

Question. Did you at any time during the recent canvass for member of Congress from third congressional district, or prior to the reception of the certificate of election by General Clark, hear General Clark, or any of his political friends and supporters, say that General Clark would get the certificate of election, let the votes be as they would?—Answer. I never heard General Clark say so. I have heard some of the supporters of General Clark say so. I heard Gus Higgins, of Brazoria County, say so for one. I heard Mr. Richard Nelson, of Galveston County, say so for another. I heard more than a dozen say so. All, I believe, were supporters of Clark; those whose names I have specified I know were.

Cross-examination:

Question. Do you know if the parties named in your last answer on re-examination were authorized to say so by either Governor Davis, Secretary Newcombe, or General Clark?—Answer. I do not, sir.

JOHNSON REED.

Subscribed and sworn to before me this 8th March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

SAMUEL DODGE, being duly sworn, answers:

Question. What is your name, age, occupation, and place of residence?—Answer. My name is Samuel Dodge; my age is thirty years; I am judge of the criminal district court of Galveston and Harris Counties, Texas; I reside in Galveston, Texas.

Question. Where were you doing the late congressional election in Galveston County, and during the registration immediately preceding the same?—Answer. During the registration I think I was holding a

term of my court in Harris County; during the election I was holding court in Galveston County.

Question. What were the features of the recent election for Congress in this third congressional district as to peace and quiet in Galveston County? Was there or not any special evidence of a desire to avoid disturbances of every kind?—Answer. All quiet and orderly, so far as I could discover. It was as quiet and orderly as any election I ever witnessed. There was every disposition on the part of the people to avoid disturbances of every kind. I was in the court-house holding court. The election did not interfere with my court in any way. The election was held at the court-house.

Question. Do you know of any undertaking, on the part of General Clark or his political friends, by fraud or threats of loss of employment or position, to influence votes in the recent election for Congressman in this, third district, in favor of General Clark and against other candidates? If so, recite such instances, with detail of particulars.—Answer. I was threatened with loss of position if I did not advocate General Clark's election, or if I did not abate my opposition to General Clark. Captain Parker, United States marshal, came to me and said he desired to talk with me, and requested me to walk up into his office. We conversed at some length. The substance of what he said was that my old friends, and those who were disposed to be my friends now, regretted very much at seeing me opposing General Clark as candidate for Congress. This was after his nomination by the Houston convention; and if I did not cease my opposition to General Clark they would seek to have me removed from office, by abolishing my court and office by act of legislature at its next session. I told him that they might abolish and be damned; that I would not support Clark. In this conversation Mr. Parker informed me that he had called upon me at the solicitation of mine and General Clark's friends, and that he did not wish me to understand that he, Parker, approved of any such proceeding or action. It was currently reported by General Clark's friends, that all Federal office-holders who did not support General Clark would be removed from office. Senator Ruby, after the election, introduced a bill into the senate of the Texas legislature to abolish my court—that is, the criminal district court of Galveston and Harris Counties, of which I was judge; Senator Ruby being a strong advocate and supporter of General Clark during the canvass, and was senator from the Galveston district.

Cross-examination:

Question. Do you know if Captain Parker was authorized by Governor Davis, General Clark, or Secretary Newcombe to make the statements he did?—Answer. I did not.

Question. Has any officer, State or Federal, been removed, by reason of his opposition to General Clark, so far as you know?—Answer. J. O. Stephenson, an officer in the custom-house; and he stated to me that he was removed from his position in the custom-house, and that he knew of no reason but his opposition to General Clark. I know of none myself.

Re-examination:

Question. Do you not know that all of those in office who supported Stephenson were solicitous and anxious about their positions, and on account of the threats that they would be removed, fearful that they would be removed?—Answer. I do. They were anxious and solicitous,

and fearful of being removed. No State officer, to the best of my knowledge, was removed.

SAM. DODGE.

Subscribed and sworn to before me this 8th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Captain EDWARD MCCORMICK, being duly sworn, answers:

Question. What is your age, name, occupation, and place of residence?—Answer. My name is Edward McCormick; my age is forty-two years; I am deputy chief of police for the city of Galveston; I reside in the city and county of Galveston.

Question. Where were you during the last congressional election in Galveston, and during the registration immediately preceding the same, and what official position, if any, did you hold?—Answer. I was in the city of Galveston, and held the position of acting chief of police.

Question. What were the features of the recent election for Congress in this third congressional district, as to peace and quiet, in the county of Galveston; was there or not any special evidence of a desire to avoid disturbances of every kind?—Answer. As far as I know, all was perfectly quiet and orderly. There was no arrest on account of the election made, and there was a general disposition on the part of the people to avoid disturbances.

Question. Do you know of any undertaking on the part of General Clark or his political friends, by fraud or threats of loss of employment or position, to influence votes in the recent election for Congressman in this third district, in favor of General Clark and against other candidates? If so, recite such instances, with detail of particulars.—Answer. General Clark, one night, came to me, as we had been personal friends—I had supported him in his previous canvass—and wanted to know why I made opposition to him. This was the night of the election of his delegates to the Houston convention. I replied because of the mob violence and intimidation that he and his friends were using; that I considered his and their course anti-republican. He desired to know why I thought so. I said Galveston had always, since I had been there, been peaceable and orderly at every election, and through false representation, for the purpose of carrying a meeting to elect delegates from this county, they, that is Clark and his friends, had gotten the governor to issue an order suspending the chief of police of Galveston; and he, the governor, assuming control, and ordering the chief of police, with the entire city police, to report to Captain Farrow of the State police, to attend a meeting of the republican party to be held for the purpose of electing delegates to the Houston convention to preserve peace and order. I further stated to him that I thought such proceedings were outrageous and anti-republican, and would eventually break down the party. General Clark then remarked, "Mac, you are a good fellow. I know your real reasons for opposing me; you are afraid your friend McKee (referring to Postmaster McKee) will be removed if I (Clark) get to Congress." I replied, "McKee is my friend; and, Clark, you know I helped you in the last canvass; but in the course you are now pursuing I cannot support you." Clark replied, "Mac, I will take care of your friend McKee, if McKee, yourself, and others will cease their hostility to me in this canvass." I said, "Well, see McKee and the others and satisfy them." He (Clark) remarked that the governor was determined he (Clark) should go to Congress, and that the President had de-

creed it, and that, "by God," he would go. I did not attend the meeting held to elect delegates to Houston convention. I was ordered by Captain Farrow, of the State police, acting under the orders of the governor, to remain with the city police, and not to go near the hall where the meeting was held. Parties who opposed General Clark, and who favored Stephenson, were holding a meeting at the court-house, and I was ordered by Captain Farrow, of the State police, to disperse and break up this meeting, which I did, stating to the meeting the orders under which I acted. The next morning I again met General Clark. In conversing with General Clark I denounced the proceedings of the previous night. He stated to me that he (Clark) did not wish to hurt anybody, but that there were a number of us here that they (Clark and his friends) would give ten days to, to fall into line with Clark. That if they did not do so, they (those who would not support Clark and held offices) would lose their official heads. I told him that, as far as I was concerned, the mayor and board of alderman had elected me, and that I was a free man, and that if Governor Davis had the power to take my position from me at the advice of his friends, he could take it and stick it up —; that I expected to live here (Galveston) when he would not have that power. Mr. Tracey, of Houston, a supporter of General Clark, (I mean Mr. Tracey of the Houston Union,) told me that those in authority had to support General Clark; if they did not they would lose their places and positions. This threat of office-holders losing their offices unless they supported Clark was the common talk of the supporters and partisans of General Clark. General Clark was not the choice of the republicans of this county as candidate for Congress. The partisans of Stephenson were in the excess of the partisans of Clark as five to three.

E. McCORMICK.

Subscribed and sworn to before me this 8th day of March, 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

The commission, at 8 o'clock p. m., March 8, 1872, adjourned until 10 o'clock a. m. March 9, 1872.

GALVESTON, *March* 9, 1872.

Commission met pursuant to adjournment. Present, D. C. Giddings, contestant; A. C. Rogers, attorney for contestee, and Leslie Thompson, jr., United States commissioner, eastern district of Texas, and proceeded with examination of witnesses:

JOHN N. CAMP, being duly sworn, answers:

Question. What is your name, your age, your occupation, and place of residence?—Answer. My name is John N. Camp; my age is thirty-five years; I am collector of internal revenue, first district of Texas; I reside in Galveston.

Question. Where were you during the late congressional election in Galveston County and during the registration immediately preceding the same?—Answer. In the city of Galveston during the entire time of the election, and I think during the whole time of registration.

Question. What were the features of the recent election for Congress in this third district as to peace and quiet in the county of Galveston? Was there or not any special evidence of a desire to avoid disturbances of every kind?—Answer. As far as my knowledge extends, the election was a very peaceable and quiet one. There was a very decided desire

and disposition on the part of the people to avoid disturbances of every kind.

Question. What do you know of the part that Governor E. J. Davis took in the recent campaign for the election of Representative to Congress in this third congressional district? And state what was the effect of the influences exerted by Governor E. J. Davis and the officers of the State administration in controlling the republican votes in this district in favor of General Clark. Did Governor Davis take an active part in the campaign?—Answer. Soon after the nomination of General Clark as candidate for Congress from this third congressional district by the convention at Houston, Governor Davis addressed a mass-meeting (which had been called to hear him speak) in Galveston, at the Turners' Hall, in which speech he earnestly advised all republicans in this district to support General Clark for Congress. The next morning after this speech Governor Davis, in conversation with a few republican friends who were not supporting Clark for Congress, advised and urged that all opposition to General Clark from republicans ought to cease. These parties with whom Governor Davis was then conversing were all republicans, and were supporting L. W. Stephenson, also a republican and a candidate for Congress, as their candidate for Congress. Governor Davis advised and urged them to drop Stephenson and to support Clark. I would say that the influence and the attitude assumed by the governor and the State officers in relation to the campaign was the controlling influence of the republican campaign; and without the influence of the governor and State officers exerted as above stated, my opinion is that L. W. Stephenson would have polled a much larger vote than Clark could have done. From information of reliable parties, and from the press on both sides, I should say that Governor Davis took an active part in the late campaign, and in favor of General Clark.

Question. Were you not sent for by Governor Davis, late in the campaign, for the purposes of an interview with yourself and other republicans of Galveston County, in order that you might be reconciled to the support of General Clark; and did you have such an interview, and where? And state the result of it.—Answer. I went to Austin, Texas, late in the campaign, in company with three leading supporters of L. W. Stephenson, opposition republican candidate to General Clark, at the instance of Governor Davis. I went from Galveston County to Austin, Texas. The delegation referred to had an interview with Governor Davis, at his office in the capitol building at Austin, at the appointment of Governor Davis. At that interview the governor urged the withdrawal of Stephenson as a candidate for Congress and the united republican support of General Clark for Congress. The interview resulted in the delegation's declining to accede to the governor's proposition and advice. The delegation were authorized to propose the withdrawal of Stephenson as a candidate, provided the friends of Clark would withdraw him, and substitute a third man, of undoubted republicanism and character, who might be selected by the delegation and the leading friends of General Clark. The governor was asked by the delegation to lend his influence to such a settlement of the differences in the republican party. This he peremptorily refused to do, and declined to interfere in that direction.

Question. Did or not the friends of General Clark threaten to take the offices and places from such of those of the republican party who were opposed to General Clark in this campaign?—Answer. The tenor of the remarks of many of Clark's friends was that republicans who failed to support Clark would be removed from office.

Question. Were or not the leading State and county officers of Galveston County opposed to General Clark in the late canvass?—Answer. They were opposed to General Clark, and took an active part against him in the canvass, and in favor of Stephenson, opposition republican candidate for Congress.

(Attorney for contestee here objected to the last four questions and answers, on the ground of being irrelevant to any issue raised by the pleadings.)

Cross-examination:

Question. Did the governor, so far as you know, take any part in the campaign, except in a fair and legitimate way?—Answer. I think he did. In appointing the partisans of Clark to positions on the State police, as judges of elections and registrars, to the exclusion of friends of Stephenson, republican candidate.

Question. Did the governor, in his speech at Turner Hall, in Galveston, alluded to by you above, either threaten or intimate the removal of any State or county officer who would not support Clark, or who opposed Clark?—Answer. I do not remember that he did, in that speech.

Re-examination:

Question. Did or not Governor Davis, as governor, use his official power for the purpose of assisting General Clark; and if yea, was this generally believed?—Answer. My information is that Governor Davis used the appointing power, where practicable, in the interests of General Clark; and I think it was so understood generally.

JOHN N. CAMP.

Subscribed and sworn to before me this 9th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

M. C. MCLEMORE, being duly sworn, answers:

Question. What is your name, your age, your occupation, and place of residence?—Answer. My name is M. C. McLemore; my age is thirty-seven years; I am a lawyer; and I reside in Galveston, Texas.

Question. Where were you during the late congressional election in Galveston County, and during the registration immediately preceding the same?—Answer. In Galveston County.

Question. What were the general features of the election during the days of election as to peace and quiet in Galveston County? Was there or not any special evidence of desire to avoid disturbances of every kind?—Answer. I had particular occasion to observe the features of the election spoken of, and attended the polls from hour to hour and from day to day during the entire election, and I never witnessed a more peaceable assemblage of like numbers on the occasion of any election before, and there was a special desire and determination manifested by the bearing of the voters not to allow any occasion for disturbance of any kind.

Question. Was it or not generally understood that Governor Davis was using his official position and power to secure the election of General Clark?

(This question objected to by attorney for contestee, on the ground that there is no foundation for the question in the pleadings.)

Answer. I know that it was so understood, confidently relied upon

by the friends of General Clark, and feared by the friends of Colonel D. C. Giddings and Mr. Stephenson.

Question. Was there or not a memorial of the citizens of Galveston and a protest against the election orders of the governor presented by you to the governor? If so, please attach a copy of the same to your answer, and identify the same by writing your name on the last page thereof, and state all facts in relation to the presentation of the same by you to the governor.—Answer. There was such a memorial presented to the governor by me in behalf of the citizens of Galveston County, on account of the election orders that had been made by Governor Davis in reference to the then approaching election of members of Congress, and I here hand the commissioner the printed copy of the proceedings of the mass-meeting of the citizens of Galveston, in which will be found, among other things, a copy of the protest and election orders relating to the same, together with Governor Davis's written reply, and which I sign for the sake of identification, as requested. The circumstances attending the delivery of the protest were these: I made several efforts to reach Governor Davis for the purpose of delivering the document to him, but, inasmuch as the governor was actively engaged in going from one point to another in Clark's district as a campaign speaker, I was greatly delayed in obtaining an interview, and only succeeded in obtaining an audience by noticing his appointments as such speaker, and thus overtook him at one of such meetings in the town of Waco, in the third congressional district of Texas. I there sought an interview successfully, when he told me that he would not attend to such business elsewhere than at Austin, the capital of the State. He assured me, however, that he would give an early written reply from Austin, which reply was afterward given, and may be found in the printed copy referred to above, and which I have attached to and made part of my answer.

Question. Have you not heard prominent republicans express themselves as to the result of the election, and as to who would get the certificate of election regardless of the vote? If so, state by whom such statements were made.—Answer. I have heard prominent republicans express themselves on this subject, and it was currently insisted by General Clark's friends that the certificate of election would be given to General Clark irrespective of any result from the actual voting, and such avowals were used as campaign arguments in favor of General Clark and to discourage those who wanted to vote against him. I heard Governor Davis, in a speech at Austin during a session of the tax-payers' convention, before the election and during the canvass, assure a republican meeting which he was addressing that the democrats might feel confident of their success in their effort to secure office and power in the State, but that he was the governor of the State, and that such hopes never would be realized as long as he was governor; that he had the power and was going to hold it. I have heard numbers of leading republicans say that Clark's friends had the counting, and they would be a set of fools if they would not count their man in. And in fact such assertions seemed to me to be so openly avowed as that I questioned that men who intended such a thing could undertake to act in such a way.

Question. Do you know of any threats of loss of office and place being made by General Clark or any of his political friends to influence or control votes in his favor or to prevent active opposition to him, General Clark?—Answer. I know that all of the office-holders in Galveston County were seriously threatened by General Clark's friends at large

with the loss of their places for their contumacy in not giving Clark their support. Dr. R. K. Smith, who was the most active campaign speaker and manager for General Clark, told me that he thought that he had, at the time of his conversation with me during the canvass, in his valise or carpet-bag, the document addressed to General Clark, whose mail-matter Smith was taking to him, by which Postmaster McKee was to be removed, through the agency of General Clark, on account of McKee's failure or refusal to support Clark. The threat to remove all contumacious office-holders was a campaign document in the mouths of General Clark's friends, and the boast that the State and General Government were at the back of General Clark seemed to be more confidently relied upon than any other argument.

M. C. McLEMORE.

Subscribed and sworn to before me this 9th day of March, A. D. 1872.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

The contestant here closed his testimony, and contestee, by his attorney, declined examining any witnesses in rebuttal; and thereupon, at 12 o'clock m., March 9, 1872, this commission adjourned *sine die* and closed its sittings.

And I, Leslie Thompson, jr., do further and hereby certify, under my hand and seal of office, that, during the whole time occupied in taking the foregoing testimony, the contestant, D. C. Giddings, and his attorney, M. C. McLemore, were present, and that A. C. Rogers, esq., the counsel for contestee, was likewise present during the whole time occupied in taking said foregoing testimony, and that the whole of said testimony was so taken in the presence of said contestant and his attorney, M. C. McLemore, esq., and in the presence of A. C. Rogers, esq., counsel and attorney for contestee; and I do further certify that the direct and cross interrogatories put to the different witnesses by contestant and contestee, by his counsel, were by me reduced to writing, and then read carefully and plainly to the witnesses to whom propounded; and further, that all the answers of the different witnesses to the interrogatories and cross-interrogatories to them propounded were by me reduced to writing in the presence of contestant and his attorney, and in the presence of A. C. Rogers, attorney for contestee; and I do further certify that said witnesses were all of them individually, in my presence and in the presence of contestant and A. C. Rogers, attorney for contestee, by me first sworn to tell the truth, the whole truth, and nothing but the truth, in their answers to the different interrogatories and cross-interrogatories to them to be propounded by contestant and contestee; that, after their respective answers were reduced to writing, I read to them, in a loud voice, their answers, and that thereupon each witness, in my presence, and in the presence of A. C. Rogers, counsel for contestee, and in the presence of D. C. Giddings, contestant, signed his name to his said answers; and that in my presence, and in the presence of contestant, and A. C. Rogers, counsel for contestee, each witness so signing was again sworn by me that, in his answers to the direct and cross interrogatories to him propounded, he had told the truth, the whole truth, and nothing but the truth. I do further certify that all the erasures and interlineations occurring in the written questions and answers in foregoing testimony were made by me before the witnesses subscribed their names to their respective depositions, and were so made with their knowledge and consent and with the knowledge and consent

of contestant and of A. C. Rogers, attorney for contestee. And I do further certify that all objections made to questions and answers by contestant or contestee were written down by me and read to the party making the objection, and that the objections, as written down by me, and as the same appear on this record, are the objections made by the party stated by me as having made them. And I do further certify that the printed document accompanying this record is the identical document appended to and made a part of the answer of the witness M. C. McLemore, and that, for further identification of the said printed document, I wrote on the last page thereof my name and official position and impressed thereon my seal of office. And further I do certify that at 12 o'clock m., on March 9, 1872, contestant closed his testimony; and thereupon contestant then and there, in my presence and hearing, A. C. Rogers the fact of his, contestant's, having so closed, and requested him then and there to proceed with the examination of witness on the part of contestee, in rebuttal, but that said A. C. Rogers, attorney for contestee, declined to take any testimony whatever, saying that he knew of none. And I do further certify that I am not of counsel or attorney for either contestant or contestee, nor am I interested in the event of this contest.

In testimony whereof I have hereunto signed my name and affixed my seal of office this 9th March, A. D. 1872, at Galveston.

[SEAL.] LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

Printed document appended, and made a part of M. C. McLemore's testimony.

LESLIE THOMPSON, JR.,
United States Commissioner.

Proceedings of a mass-meeting of the citizens of Galveston, held August 18, 1871, *to take into consideration the Governor's proclamation ordering troops to surround the election polls, and placing the country under martial law during the days of the election; also to consider what measures shall be taken in relation to the oppressive and unconstitutional system of taxation adopted by the last legislature.*

A large meeting of the citizens of Galveston was held at Turner Hall on the night of August 18, 1871.

The meeting was called to order by Major R. M. Tevis, who proposed W. Richardson as chairman, and he was accordingly unanimously elected to that position.

Mr. Richardson took the chair, and, after returning his thanks for the honor conferred upon him, stated the objects of the meeting as follows:

The occasion which has called this meeting together is probably as well known to most of you as to myself, but yet it is my duty to state briefly the subjects now to be presented for your serious deliberation. The recent election order issued by the governor of our State is to all intents and purposes a proclamation of martial law throughout the whole extent of this empire State, larger in area than most of the national governments of the world and embracing more than a million of inhabitants, all of whom are by this order to be deprived of all the blessings of civil government and to be made subject to the arbitrary will of one man. That man, by this order, has placed his foot upon the Constitution and laws of our country, and has told us that, during a certain period, all our rights under our Constitution and laws are to be suspended, and that his will must be our only law, which he informs us is to be enforced by armed troops, who are compelled to act obedient to his orders. These troops are to be distributed all over our State, and by this instrumentality he informs us that he is going to control the next election in every county. If, therefore, the people of Texas desire to enjoy the privilege of the elective franchise they will have to pass through files of soldiers in order to do so, subject to arrest and trial by court-martial for every act done and every word uttered that may be displeasing to the governor of Texas:

This extraordinary proclamation of martial law is not predicated on any charge of insurrection or outbreak, or resistance to the laws, or even on any threats or reasonable apprehension of such resistance, but we are to be deprived of all our civil rights on the mere assumption that there possibly may be such resistance.

I venture the assertion that no instance can be found of any edict in any civilized government, whether republican, monarchical, or despotic, that is so utterly subversive of every vestige of human liberty.

This meeting has been called to deliberate whether the people of Texas should submit to this daring usurpation of power, which makes us the slaves of a dictator, or whether we will try to find some remedy that may save us from such humiliation.

It is also proposed to bring forward for your consideration one other subject of almost equal importance. I allude to the enormous and unheard-of system of taxation which every inhabitant of Texas will soon be called upon to pay. The aggregate of all the various taxes now imposed to support the standing armies and various State and local troops, and which have been deemed necessary to deprive us of our liberties and keep us in subjection, amounts to fully fifteen and *sometimes twenty and even more than twenty times* any tax the people of Texas were ever before called upon to pay in the times of our greatest prosperity, when we had no such military establishments to support, and when every man was secure in the protection of his property, his life, and his liberties under the Constitution and laws of the country. It is manifest that the present burden of taxation is more than the people are able to bear, even though they might be willing to do so. There are thousands of widows and orphans, and even many men with moderate means, whose property will have to be sold annually to meet the excess of the tax over all their income. It is deemed proper that we should now inquire what remedy we have, if any, to save our people from the ruin that is threatening them from a weight of taxation without any parallel in the previous history of our country.

The following gentlemen were then nominated and unanimously elected vice-presidents:

Captain Bondies, P. Bock, N. N. John, J. A. H. Cleveland, V. J. Baulard, E. H. Watts, W. T. Austin, J. B. Jones, John Chubb, N. Lidstone, J. V. H. Chapman, William Barnes, C. Fowler, Jos. Atkins, F. Flake, George W. Grover, N. B. Yard, H. Runge, A. Waitz, C. DeBlanc, H. Close, T. B. Stubbs, W. S. Rogers, A. C. McKeen, J. C. Wallis, J. F. Magale, J. M. Brandon, Judge Sabin, General DeBray, Leon Blum.

M. F. Mott, S. W. Sydner, J. Levy, William Blike, and John S. Jones were appointed secretaries.

Major Tevis moved that a committee be appointed to draft resolutions; which was passed.

The chair appointed Charles Cleveland, F. Flake, A. M. Hobby, Selim Rinker, A. N. Mills, W. L. Moody, Frank M. Spencer, C. G. Forshey, J. P. Davie, B. C. Franklin, Phil. Dargan, and Dr. E. Goldman.

While the committee retired to prepare the resolutions, Major McLemore was called on to address the meeting.

He came forward and addressed himself more especially to the subject of taxation. He stated the late action of the district court on the frontier tax, and announced that Judge Sabin had sent his resignation to the governor, and then paid a graceful tribute to the judge.

He then brought the proposed convention of tax-payers at Austin under the notice of the meeting, and urged that delegates be appointed to attend that convention.

The major then read the following resolutions:

"Whereas the taxes now in process of collection for the revenue of the State and counties, and for other purposes, in the State of Texas, are greatly in excess of any legitimate want; and whereas said taxes are undertaken to be collected under unconstitutional legislation, and without the warrant of law; and whereas such unnecessary and unlawful exactions should be resisted by all legal means within the power of the people of the State of Texas; and whereas, under section nineteen of the bill of rights, the people shall have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance; and whereas the citizens of Travis County have suggested, by formal appeal to the other counties in the State, the propriety of assembling a convention of representatives from all the counties in the State of Texas, on the 22d day of September next, 1871, to be held at the capital of the State, (the city of Austin,) for the purpose of taking under consideration the said subject of excessive and unlawful taxation, with a view to suggest the most advisable remedy for the evil: Therefore,

"*Be it resolved*, 1. That we heartily concur in the suggestions so made by the citizens of Travis County.

"*Resolved*, 2. That the chairman of this meeting appoint fourteen delegates from the tax-payers and citizens of Galveston County to attend the convention as aforesaid, to assemble at the city of Austin, on the 22d day of September next, or at any other day that may be hereafter indicated for the purposes aforesaid.

"*Resolved*, 3. That the delegates thus appointed by the chairman of this meeting, or such of them as may attend said convention, are hereby instructed to take such action as they may deem best for the interests of this county, and that they will report their action and the action of said convention to an adjourned meeting of the people of this county,

to be convened by a call from said delegates, as soon as practicable after the adjournment of said Austin convention."

The resolutions were adopted.

Secretary Mott then read the following list of delegates appointed to attend the Austin convention: John D. Rogers, C. B. Lee, Hon. C. B. Sabin, Vol. Pool, W. L. Moody, G. F. Alford, Adolphe Flake, M. C. McLemore, A. P. Lufkin, General X. B. DeBray, L. K. Klopman, Edward Keough, J. J. Hand, H. J. Labatt.

The committee on the late election order of the governor having now returned, their chairman, Judge Cleveland, made the following

REPORT.

The committee appointed in mass meeting of the citizens of Galveston County have had under consideration the following:

"HEADQUARTERS, STATE OF TEXAS,
"OFFICE OF THE ADJUTANT GENERAL AND CHIEF OF POLICE,
"*Austin, Texas, August* 9, 1871.

"To the end that there may be no disturbance and intimidation at the registry of voters and about the polls at the coming election, the following regulations are established for the government of the officers of the election and of peace officers, State guard, and militia on duty, by order of the governor, at such registry and election:

"1. All persons coming to vote shall deposit their ballots with the least possibls delay, and after this is done they are forbidden, under any pretext, to remain about the polls or at the county-seat (unless this is their residence) during the time of election, but shall return to their homes and usual employment; and peace officers, State guard, or militia on duty at the polls shall see that this regulation is complied with.

"2. All persons are forbidden to shout, jeer at, or in any way insult or annoy voters, or candidates for office, during the registration and election; and peace officers, State guard, and militia on duty in any county where such disturbance may be attempted are directed at once to arrest such persons and to hold them to be dealt with according to the provisions of section eleven of the act entitled 'An act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box,' approved August 15, 1870.

"3. All gathering, combination, or assembling of persons in numbers at or near the county seat during the time registration is being made, or the election is going on, and for the purpose of intimidating voters, is forbidden, and should any such gathering, combination, or assembly take place in any county, it shall be presumed that the same is for said purpose of intimidating voters, whatever might be alleged by such persons as the pretext thereof, and peace officers, State guard, and militia on duty in such county, are directed to disperse such persons; provided, however, that in this regulation it is not intended to interfere with persons peaceably and quietly waiting at the registration office, or at the polls, for their turn to register or vote.

"4. All sale, barter, or giving away of liquors or intoxicating drinks at the county seat, or within two miles of it, during the time the election is going on, either during day or night, is strictly forbidden by said act, approved August 15, 1870, and peace officers, State guard, and militia are directed to arrest all persons violating this regulation, and to hold them to be dealt with according to law, and are further directed to close all establishments where such liquors or drinks are sold, bartered, or given away.

"5. The carrying of fire-arms or deadly weapons of any description, unless by peace officers, State guard, or militia on duty as such by orders from the governor, is expressly forbidden, and all persons violating this regulation must be arrested and dealt with according to law provided in such case.

"6. The governor, as provided by said act, approved August 15, 1870, (section 52.) hereby assumes command, for and during the election, of all peace officers in the State, including sheriffs and their deputies, and city or town police or marshals, and their deputies, and those officers are hereby directed to place themselves under the direction of the officer designated, or to be designated by the governor, as set forth in circular orders from this headquarters, and to aid him in enforcing these regulations and the laws of this State and the United States governing elections.

"EDMUND J. DAVIS,
"*Governor.*

"Official:

"JAMES DAVIDSON,
"*Adjutant General and Chief of Police, State of Texas.*"

In connection with this "circular," your committee here present the following extracts from the constitution of the State of Texas:

"ARTICLE I—BILL OF RIGHTS.

"SEC. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of the privilege, and no law shall be passed curtailing the liberty of speech, or of the press.

"SEC. 6. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due process of the law of the land."

"SEC. 17. The military shall at all times be subordinate to the civil authority."

"SEC. 19. The people shall have the right, in a peaceable manner, to assemble for their common good, and to apply to those invested with powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance."

"ARTICLE III.

"SEC. 2. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in case of treason, felony, or breach of the peace.

"ARTICLE IV.

"SEC. 14. No person holding the office of governor shall hold any other office or commission, civil or military."

The committee submit the following:

1. That the assumption of authority by the governor, as set forth in his "circular," are without warrant of law and in palpable violation of the foregoing provisions of the constitution of the State of Texas.

2. That his mandatory "circular" is in derogation of the common rights of the citizens, of the freedom of speech, of locomotion, and subversive of the fundamental principles of civil liberty.

3. That any attempt to control the elector in the time of his coming to, or the time and manner of his going from, the place of election, or prevent the peaceable assembling together of the citizens then, there, or elsewhere, is an act of usurpation, as shocking to the common sense as it is insulting to the dignity of a free people, and that for its despotic exercise the people will hold the governor of Texas responsible in the forum and at the bar of civilization, for all the evil consequences thereof.

4. That we sincerely confide in the ability and disposition of the people to deport themselves as good citizens, in the exercise of the right of suffrage conferred by the constitution and laws of the land, and to secure a "full, fair, and peaceable election."

5. That any use of force, or display of it, whether under color of authority or otherwise, not justified by anything done or threatened to be done, violative of the law, upon the days of election, is to be regarded as anti-republican, and as declarative of the purpose to coerce the ballot, to control its exercise for partisan purposes, and to prevent that vigilance which, as freemen, the citizens should bestow upon the conductors thereof, and as calculated to overstall, rather than secure, a "full, fair, and peaceable election."

Wherefore, the committee recommend the adoption of the following resolutions:

Resolved, 1, *by the citizens of Galveston County, in mass meeting assembled*, That the governor of the State of Texas be respectfully requested to withdraw his said "circular," order, or proclamation.

Resolved, 2. That a committee of citizens of the county of Galveston be appointed to present to the governor the foregoing report, as a remonstrance and petition for the redress of the grievances set forth therein, and that the said committee are instructed to report the result of their action to an adjourned meeting to be hereafter called by the chairman of this meeting.

Resolved, 3. That the citizens of all other counties in the State co-operate herein, by the expression of their will and sentiment in such way as to them shall seem best.

Resolved, 4. That all newspapers throughout the State friendly to the cause of civil liberty are respectfully requested to publish at length the proceedings of this meeting.

After reading the above report, Judge Cleveland, being called upon, arose and spoke as follows:

Speech of Judge C. L. Cleveland.

I confess to you, fellow-citizens of Galveston County, that I am quite overwhelmed in the presence of so large an assemblage. I am unused to speaking to such numbers of people. I find myself embarrassed, too, by the presence of reporters of the press, who take notes and print them; for I am blunt in speech—like to call things by their

right names—am not accustomed to measure my phrase, and I fear that I may fail to be, as I would be, a true exponent of your will and wishes. Indeed, on such an occasion I would rather be silent than that I should speak that which ought not to spoken.

I shall not address you as democrats, whigs, conservatives, republicans, or radicals, or as a partisan, from a partisan stand-point, but as citizens who have and feel a common interest in the preservation of their citizenship. I shall speak in the words of sober truth—"nothing extenuate nor aught set down in malice"—I shall talk to you as one honest man should talk to another.

THE OCCASION.

The occasion of your assemblage is unusual. The election order, issued by the governor of Texas, which you have convened to consider, has struck a chord in the popular heart which vibrates throughout the length and breadth of the land. I am an old Texan—have lived in Texas for more than thirty-seven years—have passed through all its governmental changes here during that period. In all that time, recurring to her history, I can recall to mind, one—only one—incident parallel with this one.

HISTORY REPEATS ITSELF—SANTA ANNA THE PROTOTYPE OF DAVIS.

In August, 1835, Santa Anna, who had overthrown the Mexican federal constitution of 1824, and proclaimed a centralized despotism instead, authorized the issuance from *his* headquarters of "orders" directed to his political chiefs for their observance and enforcement, requiring the colonists of Texas to yield up to the *Ayuntamientos* the arms of every description in their possession; forbidding primary assemblages of the people for political purposes; and commanding the arrest of prominent men, to be dealt with as disturbers of the peace by his military tribunals. The colonists, in the main emigrants from the free Republic of the United States of America, had been educated to the love of liberty. The "orders" of the Mexican dictator, like those of Davis, his exemplar, were impossible to be be obeyed. Cos and Ugartechea, good prototypes of this usurper's adjutants, with armed troops, were charged to enforce obedience to these despotic demands. The colonists at once assembled in public meeting at Columbia, on the Brazos, then, as you do now, to consult together "for their common good." It was agreed that a general consultation of all the people should be called. Delegates were elected. The consultation met. The revolution came—I see some here who were of it, and are parts of its history.

Flushed with the success in destroying the federative system of 1824, dictator over all the Mexican people, Santa Anna, at the head of his army, came to enforce his supreme will, and to compel the obedience of the colonists to his "orders." At San Jacinto, on the 21st of April following, the tyrant was stricken, and Texan liberty established. *Sic semper tyrannis!* That's the best Latin I know, and tyrants may phrase it into "plain English."

ELECTION ORDER DISSECTED AND ANALYZED.

These "election orders" of Governor Davis, issued from his "headquarters"—(it's a matter of taste, fellow-citizens; but don't you think it would be more creditable to the *head* of his excellency to ascribe them to *other* quarters?)—these "orders," I say, are indeed anomalous. Issued in utter disregard of the Constitution of the United States and the laws thereof—in contempt of the most sacred provisions of the constitution of the State; violative of the most sacred right of freedom of speech; violative of the right of peaceable assemblage; violative of the privilege of electors of freedom from arrest during during their attendance at elections and in going to and returning from the same; rights guaranteed to the citizen by the constitution which the governor has sworn to support—they are monstrous! To a lawyer they present "a case" for analysis—to a doctor, no doubt, a "good subject" for dissection.

1st. Vote quickly, go home, and if you reside away from the county seat, leave it; you can't remain under *any* pretext *about* the polls. *My* State guards are on "duty" there. They, *alone*, will remain to see that there shall be "a full, fair, and peaceable election."

2d. During all the days of registration and election all persons are forbidden to "shout!" How hard upon us Methodists! Forbidden to "shout!" Fellow-citizens, if in the rightful use of a free ballot the people shall raise themselves out of the horrible pit of mire and clay into which the bad men of these times have plunged them, *then*, by the grace of God, we can "shout."

"Or jeer." What! to be denied even the poor privilege of groaning! To those of us who are "weary and heavy laden," cast down by the burden of oppression, and looking doubtfully, with aching hearts, for "the good time acoming," when a new song shall be put in our mouths—to us, I say, *this* is the refinement of cruelty.

Or "annoy voters or candidates for office during the registration and election." Now what could be more annoying to a candidate than to be voted against? And as in voting for some, the electors vote against others, then each voter "annoys" some candidate for office; and, to execute this order, the entire voting population is to be held under arrest by the State guard, "to the end that there shall be a full, fair, and peaceable election."

3d. All gatherings, combinations, or assembling of persons in numbers [what numbers?] at or near [how near?] the county seat during registration and election are forbid. And "it shall be presumed the same is for the purpose of intimidating voters, whatever might be alleged as the pretext thereof." No excuses to be heard. My troops [State troops kept in time of peace, without the consent of Congress] "are directed to disperse them." ["The people shall have a right, in a peaceable manner, to assemble together for their common good."] (See constitution of the State of Texas, Art. I, sec. XIX.)

5th. Nobody to be armed on such occasion, except MY TROOPS! [kept in time of peace in defiance of the prohibitions in the Constitution of the United States.]

DAVIS "ASSUMES COMMAND" AND OVERRIDES THE CONSTITUTION, STATE AND FEDERAL.

6th. And for these purposes the governor "assumes command for and during the election." [Art. IV, sec. 14, constitution of Texas: "No person holding the office of governor shall hold any other office or commission, civil or military."] Yes, "assumes command," by virtue of "An act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box. Approved 15th of August, 1870."

An act passed, as he knows, in direct contravention of the mode prescribed by the constitution, in defiance of the rule that a bill shall be read on three several days, and free discussion allowed thereon in the legislature—passed against the most solemn protests of its members, that this rule had not been suspended by a constitutional vote of four-fifths—passed after a number of its members had been placed under arrest, whose only offense was their declared opposition to it, and in this way, (see the printed journal of the house and senate,) their votes suppressed, it was forced through an unwilling senate, received the ready signature of the despot it created, and *so* is styled "a law." The police, State guard, militia bill, election bills, all of that batch I include, parts of one whole, all contrived in one spirit of hostility to freedom, to enable an unscrupulous executive officer to override the will of the people, to coerce the ballot and control its count—measures defiant of the constitution of the State, in the very teeth of the Constitution of the United States, I say most solemnly, can be to you and to me no binding rule of action. We shall appeal from this usurpation to the Constitution of the United States, as the supreme law of the land. We will invoke its protection, and whatever Davis may think of it, by the living God, we will support and defend it!

I have always been taught that those who exercised authority in this republic of America were the servants of the people, and not their masters. But times change, and manners too! We cannot too often, in this crisis, recur to the Constitution. We cannot too often bring it before the eyes of those who wear authority—no matter how they got it, whether by force or fraud, 'tis all one; they are bound by it. It does seem that they are either ignorant of it, or else they think the people are. Let us educate them:

POWERS OF CONGRESS.

"ART. 1, SEC. 8. Congress shall have power * * to raise and support armies; to provide for calling forth the militia to execute the laws of the Union; suppress insurrections and repel invasion. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress."

Again:

PROHIBITIONS UPON STATES.

"ART. 1, SEC. 10. No State shall, without the consent of Congress, * * keep troops or ships of war in time of peace, * * or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

By what authority, I ask now, does this State guard army exist? Has Congress raised this army? By what authority does the State of Texas "keep troops in time of peace?" By what authority does the governor "assume command" of them? Is the State invaded, or in such imminent danger therefrom as to admit of no delay?

These are plain questions proposed to him, the chief executive officer of the State. Upon his official oath he must answer them, and stand convicted before an enlightened

constituency of a violation of all its solemn obligations. Yes, I charge it! He has violated the constitution of the State of Texas. He has violated the Constitution of the United States, the supreme law of the land. Yes, he trampled beneath his rough-shod feet the

FOURTEENTH AMENDMENT.

"ART. 14, SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

DAVIS IS A REBEL.

And now, fellow-citizens, I charge further, that his presumptuous and atrocious "election circular," if enforced and carried out, is violative in every particular of the act of Congress "to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes," and that this man Davis, who issued it, governor though he be, is a rebel! yes, a *rebel!* I assume the task of proving it. I quote from the Statutes at Large of the United States of America, Forty-second Congress, first session, ch. 22, page 13, 1871:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That *any person* [mark the words] who, under color of any law, statute, ordinance, regulation, custom, or usage of *any State*, [mark it,] shall subject or cause to be subjected *any person* [mark it] within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities [mark it] secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured [mark it] in any action at law, suit in equity, or other proper proceeding for redress; such proceeding to be prosecuted in the several district or circuit courts of the United States."

Once more:

"SEC. 2. That if two or more persons within any State or Territory of the United States shall conspire together, * * * by force, intimidation, or threat, to prevent any citizen of the United States lawfully entitled to vote from giving his support or [mark it] his advocacy in a lawful manner, toward or in favor of the election of any lawfully qualified person * * as a member of the Congress of the United States, or to injure any such citizen [mark it] in his person or property on account of such support or advocacy, each and every person so offending [mark it] shall be deemed guilty of a high crime, and upon conviction thereof in any district or circuit court of the United States, or district or supreme court of any Territory of the United States, having jurisdiction of similar offenses, shall be punished by a fine not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, as the court may determine, for a period of not less than six months nor more than six years as the court may determine, or by both such fine and imprisonment, as the court shall determine."

Yet, fellow-citizens, this man Davis, by his order, tells you how, during the days of registration and election, you shall deport yourselves; how you shall *not* assemble together "under any pretext whatever;" how you shall not speak; how you shall disperse; how you shall not "advocate or support" a candidate; and how you shall *keep silence.* Alas! during these awful days not even a funeral dirge shall be sung in honor of departed liberty!

But I have not yet done. Again I refer to the law—you know the facts. I said I would convict him of rebellion against the authority of the United States. If I fail in this, after reading the fourth section of the same act, then pronounce him not guilty.

"SEC. 4. That whenever, in any State or part of a State, the unlawful combinations [the State guard and the police and the commander-in-chief are the combinations] shall be organized and armed, [as they are,] and so numerous and powerful as to be able, by violence, to either overthrow or set at defiance the constituted authorities of such State [they are in complicity with it] and of the United States within such State, or [mark it well] when the constituted authorities are in complicity with or shall connive at [mark it] the unlawful purposes of such powerful and armed combinations; and whenever, by reason of either [mark it] or all of the causes aforesaid, the conviction of such offenders and the preservation of the public safety shall become in such district impracticable, in every such case [is this not such case?] such combination shall be deemed [mark it] A REBELLION against the Government of the United States." * *

This act of Congress was made for "rebels." We insist upon its observance. Will not Governor Davis take warning?

WHAT SHALL WE DO?

And now, in conclusion, fellow-citizens, you may ask, suppose Governor Davis should not regard the respectful remonstrance which the people make to him against the enforcement of his "election order," what shall we do?

Well, perhaps, when he reads, as he must read, that remonstrance, embracing, as it does, the plain provisions of the Constitution, and which form part of it, and finds that the extracts of its most sacred parts are genuine, and contrasts them with his "election order," and sees, as he must see, if he has sense, that it violates the Constitution which he has sworn to support, then, if he has conscience, as he must have, HE WILL RECALL HIS ORDER.

Again, you say, suppose after all this he don't, what then? The question at this time is embarrassing. "I am reminded of an anecdote," which I will not tell now, but the *moral* of it is: Don't cross Fox River till you come to it! Sufficient for the day is the evil thereof.

I have an abiding faith in the people. They will do right in any emergency. They will deport themselves as good citizens, and as becomes freemen. I have said I was an old Texan, though still young in years; if I should live to witness the enforcement of this threatened outrage on this people, then I may say of Texan liberty as Grattan said of Irish liberty: "I sat by its *cradle*, I followed its *hearse!*"

But let us hope for better things. Be of courage. Abate not your zeal in the cause of human rights, of civil liberty and the preservation of the purity of the elective franchise. Remember, there is one thing in which the people are agreed, and they will have it—"A FULL, FAIR, AND (if possible) A PEACEABLE ELECTION."

Judge Cleveland was frequently greeted with applause from all parts of the house during his speech.

Judge B. C. Franklin was next called upon, and responded as follows, confining his remarks chiefly to the subject of Mr. McLemore's resolutions.

Judge Franklin's speech on the present enormous taxes imposed on the people of Texas.

GALVESTON, *August* 26, 1871.

To Willard Richardson, Esq.:

At the mass meeting of the citizens of Galveston, held in the Turners' Hall on Friday, the 18th instant, at the request of the meeting, I addressed them on the subject of taxation. In compliance with your request "that I would reduce my remarks to writing," I have done so, though not, perhaps, in the exact language used. I have copied at length the provisions of the Constitution and laws then cited. The accompanying sheets contain the substance of what I then said and still believe. If anything I have written or said will guard the people against illegal, unjust, and arbitrary exactions, I shall be amply repaid for the labor of writing my views.

Very respectfully,

BENJ. C. FRANKLIN.

MEN OF GALVESTON: You have called! I come to express my views on taxation in Texas, and on the legislature of Texas pretending and attempting to impose enormous burdens upon the people, unprecedented in the past history of the republic or State of Texas. Pardon me a reference to myself. I am one of the comparatively few living witnesses who looked on and participated in the struggle that separated Texas from Mexico. I saw a sparsely settled, *but united people*, occupying a glorious country, form for themselves a regular organized government. I witnessed the act of the same people, in the exercise of their inherent sovereignty, when, subsequently, they gave up an independent nationality to become one of the States of the American Union. Since then I have shared in your triumphs and misfortunes. From the beginning I have aided in making, administering, expounding, and studying your laws. If I have learned anything from books, derived any benefit from reflection, formed any opinions which would benefit you to know or aid you in maintaining your inalienable rights to life, liberty, and property, you have the right to ask for the expression of my views, and I have both the *right* and the inclination to give them. The resolutions you have heard read remind us how necessary it is for a people who desire and deserve to be free to look to the *original principles* on which the government of our State is founded, to examine them, swear by them, maintain them, as free men and good citizens, against all aggression or usurpation, whether attempted by few or many, under pretense of law or by force of the bayonet.

Your right to life, liberty, property, and the pursuit of happiness is older than the government under which we live. They are rights inherent and inalienable, given to man by Divinity, and our Government was formed at the instance and by the will of our people the better to protect those rights; not to destroy them. Your legislators, governors, judges, and officers are simply servants and agents intrusted with power

for their protection, not to make them masters of the people. Your Government was not established for the sole benefit of any one man or set of men. Your agents have neither the legal nor moral right to administer the government for the exclusive benefit of themselves and their partisans at the expense of the people. These are principles that ought to be held sacred by every lover of liberty. The man that winks at and participates in their violation to-day establishes a precedent of which he may become the victim to-morrow.

But enough of this. It is the subject of taxation which you desire to hear discussed. Before calling your attention to the legislation on the subject, let me claim your patience while I recite the following provisions of the bill of rights and the constitution, because in the course of my remarks I must test the constitutionality of the laws by reference to those provisions:

"ARTICLE 1, BILL OF RIGHTS, SEC. 2. All freemen when they form a social compact, have equal rights; and no man or set of men is entitled to exclusive separate public emoluments or privileges."

"SEC. 16. No citizen of this State shall be deprived of life, liberty, *property*, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land."

"SEC. 21. The equality of all persons before the law is herein recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor be exempted from any burden or duty, on account of race, color, or previous condition."

"SEC. 23. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights *is excepted out of the general powers of government and shall forever remain inviolate; and all laws contrary thereto, or the following provisions, shall be void.*"

These provisions place every citizen in the broad land on the same plane. If he has property, each citizen holds it by virtue of the same laws, subject to the same burdens in proportion to its value. If regarded as a citizen without reference to property, each and every individual is liable to the same duties or burdens and the same protection.

But in order that we may more fully comprehend the subject, I proceed with my extracts:

"ART. 2, SEC. 1. The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person or collection of persons, being of one of these departments, shall exercise any powers attached to either of the others, except in the instances herein expressly permitted.

"ART. 3. SEC. 3. The legislative power of the State shall be vested in two distinct branches, the one to be styled the senate and the other the house of representatives, and both the legislature of the State of Texas. The style of all laws shall be 'Be it enacted by the legislature of the State of Texas.'"

"SEC. 7. The house of representatives shall consist of ninety members and no more."

"SEC. 10. The senate shall consist of thirty senators and no more."

"SEC. 17. Each house shall keep a journal of its own proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered upon the journals."

"SEC. 24. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until on three several days it be read in each house, and free discussion allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker of their respective houses; provided, that the final vote on all bills or joint resolutions appropriating money or lands for any purpose shall be by the yeas and nays."

Pardon me a few more extracts, necessary to a clear understanding of the subject:

"GENERAL PROVISIONS, SEC. 19. Taxation shall be equal and uniform throughout the State. All property in the State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses may think proper to exempt from taxation. The legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession; provided, the term occupation shall not be construed to apply to pursuits either agricultural or mechanical."

"SEC. 28. Justices of the peace shall assess the property in their respective precincts, under such laws as shall be provided and enacted by the legislature; and the sheriffs of the several counties shall collect the taxes so assessed."

I will not weary you by futher quotations from the constitution at present. I call your attention particularly to those I have indicated. I ask you to read them over, to study them, think of them in your homes, your work-shops, and your offices, that you

may be able to form an opinion of your own on matters of vital importance to you, individually and collectively.

Judge Cooley, one of the ablest writers on constitutional law this country has ever produced, says: "One of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws cannot be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain; and by the constitutional agency alone the laws must be made until the constitution is changed. The power to whose judgment, wisdom, and patriotism this high prerogative is given cannot relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved; nor can it substitute the judgment, wisdom, and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust."

With equal force it has been said that every positive direction in the constitution contains an implication against everything contrary to it, or which would frustrate or disappoint the purpose of the provision. What the constitution directs to be done by one specified officer the legislature cannot authorize another and different officer or person to do.

The direction that the duty shall be performed by that officer creates an implied limitation upon the law-making authority as strong as though the constitution had declared the legislature shall not authorize or direct the duty to be performed by any other person or in any other manner than therein commanded.

The present constitution was framed subsequent to the close of the conflict between the Confederate States and the United States, before time had softened the individual asperity and memories of wrong growing out of the late conflict. Men were sent to the convention *having no feeling or interest* in common with the great mass of the people. Intent upon organizing a government to give them office and place, a large portion of our citizens, representing the intelligence and property of the State, were excluded by the bayonet from participating in the convention. We find the constitution framed under such circumstances—patched up by the clerks after the adjournment of the convention, and deriving its validity from the vote of the people, who only accepted it to escape military rule. Who can wonder, then, if it is defective, if it is a hard machine to run according to its provisions; illy adapted to the actual condition of the people, or to attain all the ends of good municipal and common government? Fortunately for us, the minds of men usually run in old grooves; they do not generally ignore traditional principles; they adopt them as received maxims of government, without thinking how far they are limitations on partisan projects, or how or when they may be invoked for the protection of the people against the illegal and partisan legislation of an uncontrolled majority. It is to this proclivity of men's minds we owe our bill of rights. From a close examination of the journals of both houses of the legislature, charity would induce me to think that most of the members of the legislature of 1870 had never read the constitution that, as members, they were sworn to support. The violations of the constitutional provisions, as disclosed by the journals, are so open, glaring, and palpable, that if to do that which a man swears he will not do *would constitute perjury*, one might say, without impropriety, those who disregarded their oaths so solemnly required and taken to support the constitution occupied the wrong public building, and that they were out of place when they were outside of the penitentiary.

But what of the taxes? In 1869 the taxes levied which were necessary for the support of the government were less than four hundred thousand dollars. What is the sum sought to be raised, under color of law, during the present year? As I estimate from looking at the rates of taxation imposed under various heads, and estimating the amount of taxable property, the sum will reach an enormous amount, somewhere between five and eight millions. What public necessity requires such a sum? To what purpose is this sum to be applied? In part it is to pay the expenses of frontier troops, militia, State guard, State police, all raised under bills passed in time of peace, in the total absence of any great emergency—in defiance of and in direct conflict with the twenty-fourth section, article 3, of the constitution of the State of Texas. *No such acts have the force of law.* These bills or acts, besides being passed in disregard of your State constitution, are equally in conflict with the Constitution of the United States, which prohibits any State from keeping troops in time of peace. By accepting your State constitution you have consented to pay your proportionate part of the public burdens, but you have never consented that your property should be taken to aid in the unlawful purpose of destroying liberty, violating and overthrowing both your State and Federal constitutions.

The acts of the 15th of August, 1870, to levy taxes, and the act for the assessment and collection of taxes, fall within the preceding category, passed in defiance of and in violation of the twenty-fourth section, article 3, of the State constitution, as will be evident from an examination of the journals of the house and senate. Acts, as I am informed, blindly passed by the senate, without having been read in open session, except you call reading the caption or title reading the bill.

The frontier tax was never levied by the fourth section of the act authorizing the sale of $750,000 in bonds, or by any other law or section, and since the opinion of Judge Sabin in the injunction case of T. B. Stubbs & Co. against Dirks, Sheriff—pending in Galveston district court—we may consider so much of the iniquity dead and buried for the present; and all demand for or collection of such frontier tax is an arbitrary exaction of money from the people without the authority of law.

But let us look at the act of the 22d of April, 1871. As to how, when, and by what vote this bill was passed, I know nothing; I had not the misfortune to be in Austin, and have never had the opportunity to see the journals.

The second section, levying a poll-tax of one dollar on persons between twenty-one and sixty, for the benefit of public schools, and the third section, levying an *ad valorem* tax of one-half of one per cent. on real and personal property, are the only legitimate taxes levied by the legislature within the scope of their powers, if the act was passed in compliance with the twenty-fourth section, article 3, of the constitution. The fourth section leaves it to the county court to *fix the rate* of the tax, if one-fourth of one per cent. of *ad valorem* tax is too large. This section violates the rule that the legislature cannot delegate its power. It violates the first section, article 2, of the constitution, which prohibits the judicial department from exercising any legislative power.

Section 5 of the act of 22d April, 1871, is not in conformity with the forty-sixth section of the general provisions of the constitution; that section provides: "It shall be the duty of the legislature, after the adoption of this constitution, to levy a special road-tax upon the taxable property of all the persons in this State, *and appropriate* the same to the building of bridges and the improvement of public roads in the different counties of the State, under such rules and regulations as the legislature may prescribe." The legislature *levy*. The legislature *appropriates*. The attempt to levy or to vest in the county court the power to levy a poll-tax for this special purpose, finds no warrant in the constitution, nor can the county court apply any portion of the funds contemplated in this section until the legislature makes the appropriation. This forty-sixth section of the constitution seems to have been inserted with the express design of *subjecting property* to taxation, and exempting the recently enfranchised from contributing labor for the purpose of building bridges and keeping up the public roads, especially as the concluding clause of the section is in these words: "and no law shall be passed requiring the personal services of any portion of the people on public roads." This section necessitates an entire change in our system of keeping public roads and bridges, as few negroes have taxable property to be charged for these purposes. I do not think their radical friends in the legislature or composing the county courts act fairly and honestly by the negro, when they give him the *privilege of working* on the roads *to pay* the "dollar poll-tax," they have no right to exact. Now I do not proclaim it in the streets, the market, and in public places, or even slyly hint to them in person, that I am the special friend of the negro race, and particularly of those who have a right to vote. As I fear their *particular friends* of the white persuasion have not informed them of their rights in this matter, I will suggest, for their benefit, that they need not pay that "one dollar poll-tax," or work it out, either, unless they have a mind to; it is an arbitrary exaction from the negro and the white, attempted by the *negroes' peculiar friends* in the legislature.

The sixth section of the tax act of the 22d of April, 1871, levies taxes in violation of sections 2, 16, 21, and 23 of the bill of rights, section 1 of article 2, and section 19 of the general provisions of the constitution. To levy a tax is a legislative power to be exercised subject to the limitations expressly contained or necessarily implied in the constitution. To levy, assess, and collect a tax is the taking of the property of the citizen under the taxing power, vested in the government for public purposes and uses. The consideration received by the citizen for this contribution on his part, is the real or supposed protection of his rights of property and person, which the Government affords, or should afford, by and through the equal and just administration of the *laws of the land*. The power of taxation is vested in the General Government, and the various States by their several constitutions; they differ in many respects, and hence a variety of conflicting decisions of the courts of the different States on seemingly the same questions. The eighth section, article 1, of the Constitution of the United States declares the "Congress shall have power to lay and collect *taxes, duties, imposts, and excises*, * * * but all duties, imposts, and excises shall be uniform throughout the United States.

"SEC. 9. No capitation or other direct tax shall be laid unless in proportion to the census or enumeration herein before directed to be taken. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

Such are the powers of taxation and the limitations therein, as declared in and by the Constitution of the United States. The *Congress can select the objects and the subjects* of taxation; they may select any particular subjects or objects of taxation, and may let others pass free. They can fix the amount without limit within their discretion.

Those who look into the legislation of Congress on the subject of taxation to find precedents by which to frame an act to levy taxes in Texas will necessarily run into grave errors. The legislature in Texas cannot levy taxes by the rules laid down in the Constitution of the United States or declared in the enactments of Congress. The legislature can levy no duty, impost, custom, or excise tax.

That the United States have levied license taxes for revenue is no precedent for State legislation. The license tax imposed by the United States conferred no privilege, imposed no restriction on the person. The license was simply a receipt for taxes. Whether constitutionally demanded or not is not a question before us.

In your State of Texas what are the powers conferred on the legislature to tax the people, and what the limitations?

Section 19 declares the will of the people in the following terms:

"Taxation shall be equal and uniform throughout the State. All property in the State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses of the legislature may think proper to exempt. The legislature shall have power to levy an income tax and to tax all persons pursuing any occupation, trade, or profession; provided, that the term occupation shall not be construed to apply to pursuits either agricultural or mechanical."

The constitution of Texas specifies and fixes the objects or subjects of taxation: *property*, "income tax" and on *all persons* pursuing an occupation not agricultural or mechanical. The legislature cannot create a new or different subject of taxation. They cannot fix a different rule of taxation from the fixed and unbending rule prescribed for their government by the people. "Taxation shall be equal and uniform throughout the State." By the bill of rights each and every citizen stands before the law as an equal. You cannot grant an exemption to one and impose a burden on another. You shall tax the property of the citizen. You *may* tax his income or his person to raise revenue, but you must do it subject to the rule that the tax shall and must be equal and uniform—that each citizen shall contribute his proportion and no more. The language of the constitution is plain. It needs not the aid of rules of construction to understand its plain English. Such rules will be invoked only by those who would fritter away the limitations upon the power of legislation.

The constitution is a curb and bit legislators do not seem to like in Texas. Let them champ the bit and froth at the mouth. I say to you, stand by the constitution and your bill of rights. Hold the reins. It will not be long until you can turn them out, as gentle as lambs, to graze in pastures, instead of feeding at the public crib.

No honest, sensible, or sane man can pretend that the taxes imposed by the sixth section of the act are either equal or uniform. It divides individuals pursuing the same occupation into different classes, and fixes different rules or rates of taxation to be paid by persons pursuing the same occupation. It taxes others pursuing the same occupation and fixes the tax in reference to the place it is carried on, either in the town or country. The peddler—the "Bohemians" are after him. They require him to pay a new tax in every county he visits in the exercise of his natural rights which existed before the government was formed. One would infer that legislators do not like peddlers. That may be so; but it does not follow that they have a right or the power to tax him out of the country or leave him to exclaim, "Doctor Pangloss's occupation's gone." If we are to have class legislation, I insist that the legislature should embrace a very numerous class that seems to have been omitted in this section. I will not say how many members of the legislature fall within the rule. I mean all persons whose only occupation seems to be pursuing an office.

This sixth section goes further, after imposing this unjust, unequal, and in no sense uniform tax on *a part of the people*. It delegates to the county courts the power to add to the iniquity by levying one-half as much more on the unfortunate person who has an occupation. The constitution says *the legislature shall have power*. It does not confer the power on any other person or body of persons. The county court is a part of the judiciary, in whom the judicial powers of the government are vested, and by the first section, second article of the constitution they are expressly prohibited from exercising the legislative power save and except in the case provided for by the thirty-second section of the general provisions, which authorizes the inferior courts of the several counties to assess and provide for the collection of a tax on taxable property to aid in the construction of internal improvements upon a vote of two-thirds of the qualified voters of their respective counties. It may be said in reply to my positions that taxes are levied in this manner in other States. That may be, and all right in other localities. I am not one of those who look in a justice's court act or the act to levy taxes to find the bill of rights or the constitution of the State, and if I cannot find the constitution re-enacted in the act, ignore its existence. In the course of a long practice I have met some lawyers and many citizens who had acted as justices of the peace, constables, or sheriffs in other States, who have, at times, volunteered to tell me what the law in some particular case was. They may have been right where they came from, but their law did not fit the locality in which they proposed to apply it,

some constitutional principle or statute law of Texas conflicting with their preconceived notions.

Pardon me; I may weary your patience. You have asked my views, and I feel in a mood to give them. The system of common free schools. The school tax. What of the one? What of the other? The 8th section of the act of the 22d April, 1871—let me place it before you in the language of the act as published: "A direct *ad valorem* tax for the year 1871 of one-fourth the amount of the direct *ad valorem* State tax on all real property situate, and all personal property owned, in each school district in this State, save so much thereof as is exempted as aforesaid to 'provide the necessary (Con., art. 9, sec. 7) school-houses in each district, and insure the education of all scholastic inhabitants of the several districts.' This tax, if deemed too large, may, before collection, be reduced to any specific less rate by order of the county court." This act was approved by the governor on the 22d April, 1871.

There is another act, entitled "An act to organize and maintain a system of public free schools in the State of Texas." This act appears to have been approved on the 24th of April, 1871—two days after the tax act. I have heard it stated that the "act to establish public free schools" was passed by the legislature, sent to the governor, and that it became "an act" (I will not say law) before the approval of the tax act—the governor having permitted it to become "an act" without approval. Be that as it may, he appears to have approved the bill on the 24th of April, 1871. Can you tell why the governor first declined to sign the bill? I think I can. The governor is a lawyer; has been district judge; is supposed to have read the constitution which he assisted in making, and which he has sworn to support.

This school bill of 1871, on its face, is so glaringly violative of the constitution, such an outrage upon the fathers and mothers of our children, so destructive of our social and political rights, that his excellency permitted it to pass for the time being, willing to let the odium of the law rest on the legislature, while he enjoyed the exercise of the extraordinary and unconstitutional powers conferred on himself. Can you tell why the governor approved the bill on the 24th of April, after the approval of the tax act? If he could see no constitutional or other valid objections to the bill, I can. When it is declared in an act that it shall take effect from and after its passage, the courts date its taking effect from the date of the approval by the governor. This rule is important. If the school bill had actually taken effect and become a law without the signature of the governor, then the 8th section of the tax act, which authorized a tax of one-eighth of one per cent., repealed so much of the fifth section of the school bill as authorized the directors of the several school districts to levy a tax in their respective districts not exceeding one per cent. Now, if the governor approved the school bill on the 24th of April, and it takes effect from that date, the fifth section of the school bill repeals the eighth section of the tax act. The only question is, whether you are to be taxed one-eighth or one per cent. to build school-houses.

I do not know that the school bill became a law before the tax act was approved. Let us say it took effect on the 24th April. Let us analyze the bill; it is not long.

Section first refers to the "superintendent of public instruction," an office created by the second section of article nine of the constitution; the term of office is four years; the governor to fill the office for the first term. The governor has appointed the "superintendent." Who is he, where from, and when did he come to Texas? Does he belong, body and soul, to the governor? Is it likely that one of that *strange gang* that flocked to our State after the close of the war like the "tent-dwellers," houseless, homeless thieves and vagabonds, an unknown eastern people that suddenly appeared, without notice, all over Europe in the fifteenth century, in Spain called "Gitanos;" in France, "Bohemians;" in England, "Gipsies;" and in Texas, "Carpet-Baggers"—I say, is it likely that *he* would differ in opinion with the *governor?* This first section refers to his duties and powers.

SEC. 2. The superintendent of public instruction, with the approval of the governor, shall appoint one supervisor of education in each judicial district, (there are thirty-five judicial districts;) his term of office four years, *unless sooner removed;* salary not to exceed $1,200 per year. The supervisors may be removed by the superintendent on approval of the governor. The supervisors, subject to the control and supervision of the superintendent, have the power to subdivide the counties in their districts and to appoint five school directors for each school district. Let us see what may be done under this section: 735 supervisors, 158 counties; a constitutional county contains nine hundred square miles; divide each county into five school districts—to correspond with the number of justices of the peace—each school district would contain one hundred and eighty square miles; reduced to a parallelogram, it would make each school district ten miles wide and fifteen miles long. This would require the appointment of 3,950 school directors subject to the control of the appointing power. Add to this the number of teachers, say only two, when, in all probability, in many districts, from five to ten will be necessary, but the two added to the 3,950 will make the number 5,450 persons, devoted to the appointing power. The governor and those he controls only appoint his friends. Let me make an extract from the fifth section of the act:

"The directors of each school district shall have authority to levy a tax of not exceeding one per cent. for the purpose of building school-houses and maintaining schools in their respective districts; and the manner of collection and disbursement of this tax shall be prescribed by the board of education of the State."

What will one per cent. on the taxable property of the State amount to—say, low estimate, $200,000,000? Taxable property yields $2,000,000 in taxes in one year; the mode of collection and distribution subject alone to the board of education.

The third section provides, "the superintendent of public instruction, the governor and attorney general shall form a board of education for the State."

This board has the power to provide for the examination and appointment of teachers, and of fixing their compensation; prescribing the course of study, books to be used, with the right to manage all the little contracts for building school-houses, buying books, &c., and paying the bills out of the two millions, without accounting to any one.

By the sixth section you are required to send your children to the public school, whether you like it or not, if you are not able to get a private teacher. You must send to the public school or subject yourself to indictment. Your child must take the chance of having his manners, his morals, his principles influenced or controlled by an itinerant pedagogue, selected by the governor, or his instruments, against your wish and consent, who depends on the governor's will to hold his position and for his compensation. This is no bill for the purpose of educating the children of Texas. The caption is a fraud, and misrepresentation of the purposes for which it was framed. The title of the act should be, "An act effectually and permanently to organize the radical party in Texas, and to raise funds out of the property of the opponents of the party to pay the expenses of the canvass, to buy off candidates, and buy up voters."

The governor cuts the principal figure in the bill, and as his co-operation is absolutely necessary to carry the bill into effect, and without him they can do nothing, the whole fabric of the bill must fall. The constitution does not authorize the school directors to levy any tax, and the legislature cannot confer the power.

I call your attention to article 14, section 4 of the constitution, in these words:

"No person holding the office of governor shall hold any other office or commission, civil or military."

If to be one of a "board of education for the State,' with the power to legislate, to collect $2,000,000, and to disburse it, and to have control over the education of all the children, is not an office of high trust and great responsibility—is not holding another office than governor, then I do not know anything of the matter, and the English language is inadequate to convey an idea. The governor may call in his State guard and police, and commence the collection of that $2,000,000—because of the poverty of the English language—without the intervention of a justice of the peace to make the assessment.

I will call your attention to one more subject—I mean the assessment and collection of the taxes when legitimately levied. There can be no such thing as tax without assessment. The legislature fixes the rate or rule; the justices of the peace apply the rule in their several precincts. The duty of assessment is conferred by the constitution on the justices of the peace. The legislature cannot authorize the assessment by any other person as deputy, though they have attempted to do so in the tax law. The assessment is a judicial act, and the legislature might with as much pretense of authority authorize the appointment of a deputy judge of the district or supreme court.

The sheriffs and their deputies may tell you if you don't pay your taxes—whether they are legal or not—they will sell your lands. You need not believe it; they have no such power. If the tax is legally levied on your lands, and you have not the money to pay, the constitution fixes the penalty—you shall pay interest on the amount of your taxes from year to year, your lands subject to a lien in favor of the State. If your lands are to be sold for taxes, it must be under a decree of some competent court. Such a decree cannot now be had, nor can the legislature authorize the courts to render such a decree.

Taxes paid under existing circumstances, in all human probability, will be squandered without any proportionate public benefit.

Allow me to suggest the propriety of memorizing the following provisions of the constitution, and every time you see a sheriff or his deputy, repeat them over to him for your protection and as a guide for him in the discharge of his duty.

ARTICLE TWELVE, GENERAL PROVISIONS.

"SEC. 20. The annual assessments made upon landed property shall be a lien upon the property, and interest shall run thereon upon each year's assessment.

"SEC. 21. Landed property shall not be sold for the taxes due thereon, except under a decree of some court of competent jurisdiction.

"SEC. 22. Provisions shall be made by the first legislature for the condemnation and sale of all lands for taxes due thereon; *and every five years thereafter*, of all lands the taxes upon which have not been paid to that date."

You have asked my views on the subject of taxes and taxation. You have them. No one acquainted with my professional life will for a moment doubt but that I have spoken freely and openly, believing the law to be as I have stated. If I may have mistaken the law in any particular, you will excuse the error; when some one, and older or better lawyer shall point out the errors. If the views I have presented shall have a tendency to encourage you to study the great and fundamental principles upon which your lives, liberty, and property depend, I shall look more hopefully to the future, expecting the administration of the government to return to the principles upon which all free governments are founded, and without the maintenance of which no free government can long exist.

The report and resolutions in reference to the governor's election-proclamation were then unanimously adopted, and also the resolutions offered by Mr. McLemore on the subject of the present taxes.

Colonel Forshey then moved that the chair appoint a committee to wait upon the governor, and respectfully present to him the proceedings of this meeting; and that upon receiving the governor's answer the chairman be requested to call another meeting of our citizens to consider the same. This motion was adopted, and the meeting then adjourned.

The chairman subsequently appointed the following gentlemen as a committee in accordance with Colonel Forshey's resolution:

A. M. Hobby, M. C McLemore, C. L. Cleveland, B. C. Franklin, W. L. Moody, Leon Blum, Hiram Close, George H. Flournoy, James Sorley, Henry Runge, A. C. McKeen, John B. Jones.

The following is the address to the governor by the committee, which was presented to his excellency by Major McLemore in person, at Waco, on the 2d instant, together with the proceedings of the mass meeting:

GALVESTON, *August* 18, 1871.

To his excellency E. J. DAVIS, *Governor of Texas*:

SIR: The undersigned, a committee appointed by the citizens of Galveston County in mass meeting assembled, to present to the governor the report and resolutions of that body, have the honor herewith to transmit them to your excellency, and in doing so would express the earnest wish that they may receive the deep consideration which their importance demands.

The publication of your excellency's circular in relation to the approaching election has arrested the attention of every thoughtful mind, and, it is not too much to say, has confounded the people with surprise. They are as unwilling to believe, sir, that you are capable of offering an insult to the citizins of the State—through an executive order—as that you are unacquainted with its laws, the interests and genius of the people. The honor of the executive and the rights of the people are inseparable. We would rather believe that you have more exalted aims and nobler ends in view, and that nothing could be more grateful to a high sense of official justice than a fair and peaceable election—an honest expression of the public will.

To secure this end we promise our honest co-operation, but it can never be accomplished by the presence of armed police at the polls, whose duty it is made by your order to disperse and send to their homes peaceable and unoffending citizens.

With a full knowledge, sir, of the sentiments and feelings of the intelligent voters of Texas, together with the impossibility of executing your published order, we earnestly request you to withdraw it. If this is done, no serious disturbance will occur which the ordinary peace officers of the State cannot suppress, and the election will proceed as quietly as in any portion of the United States.

We would request, through the member of our committee who presents this communication and accompanying documents, a reply, that we may submit the same to the mass meeting under whose instructions we have acted.

We have the honor to be, governor, very respectfully, your fellow-citizens,

A. M. HOBBY.
M. C. McLEMORE.
C. L. CLEVELAND.
B. C. FRANKLIN.
W. L. MOODY.
LEON BLUM.
HIRAM CLOSE.
GEO. H. FLOURNOY.
JAMES SORLEY.
HENRY RUNGE.
A. C. McKEEN.
JOHN B. JONES.

Mr. McLemore found the governor in Waco, on the 2d instant, and was received courteously by him. Having received assurance from his excellency that he would

give an official answer as soon as he should arrive in Austin, Major McLemore returned home, and the following letter in answer was received here on the 9th instant:

The governor's answer.

GOVERNOR'S OFFICE, *Austin, September* 5, 1871.

GENTLEMEN: I have the honor to acknowledge receipt from Major M. C. McLemore, while at Waco, a few days since, of your communication of August, 1871, with proceedings of a meeting at Galveston, on the 18th of August, respecting my circular of August 9th, establishing regulations to prevent disturbance and intimidation at the approaching registry and election.

In answer to the request contained in the resolutions and in your communication, that I should "withdraw" said circular, I will only say that I cannot, after careful consideration of the constitutional objections to the circular presented by your meeting, coincide with the views expressed, or see that the constitutional enactments referred to have any just application to this case.

The rights of *some* people to assemble together, &c., &c., must be held subordinate to that of *other* people to exercise the privilege of franchise peaceably and without hinderance or intimidation.

Further, I do not coincide with you in your apprehension of the "impossibility of executing" the provisions of the circular. I think those provisions will be enforced.

Having these views, I of course find myself compelled to refuse your request, but beg leave to say that this is done with the greatest respect for your opinions and wishes.

Your obedient servant,

EDMUND J. DAVIS, *Governor.*

Messrs. A. M. HOBBY, M. C. MCLEMORE, C. L. CLEVELAND, B. C. FRANKLIN, and others. (Care of Major M. C. McLemore, Galveston, Texas.)

It will be seen that the above answer simply reaffirms the election order, without giving any explanation or qualification to the objectionable features complained of by our citizens. What further steps, if any, may be taken by the people of Galveston or other counties, remains to be seen.

Hon. D. C. GIDDINGS

To LESLIE THOMPSON, JR., U. S. commissioner, eastern district Texas,

	DR.
To taking and returning depositions of witnesses in Galveston and Harris Counties, in the contested-election case of Giddings *vs.* Clark, from the third congressional district of Texas, thirty-five thousand words, at 25 cents per hundred words	$87 50
To passage-money paid from Houston to Galveston, and Galveston to Houston	5 00
To five subpœnas issued, at 25 cents	1 25
	93 75
Marshal's costs:	
To serving nine witnesses by subpœna, at 50 cents per witness	4 50
	98 25
Postage to Washington	2 30
	100 55

Received payment from D. C. Giddings.

LESLIE THOMPSON, JR.,
United States Commissioner, Eastern District Texas.

CONTENTS.

[For alphabetical index see page 261.]

No.		Page.
1.	Notice	1
2.	Answer	2
3.	House resolutions	8
4.	Agreement between the parties	8
5.	Letter appointing attorney	9
6.	Notice to take depositions in Bosque County	9
7.	Depositions taken in Bosque County	10
8.	Depositions taken in Washington County	18
9.	Depositions taken in Brazos County	64
10.	Depositions taken in Madison County	78
11.	Depositions taken in Milam County	80
12.	Depositions taken in Robertson County	83
13.	Depositions taken in Limestone and Freestone Counties	96
14.	Depositions taken in Grimes, Walker, and Madison Counties	134
15.	Depositions taken in Travis and Hill Counties	151
16.	Depositions taken in Navarro and Hill Counties	163
17.	Depositions taken in Harris County	189
18.	Depositions taken in Galveston County	225

INDEX.

A.

Page.

Agreement of parties 8
Answer to notice of contest 2
Attorneys, letter appointing 9

Austin County evidence :

Z. W. Matthews 30
J. N. Wilson 32

B.

Bosque County :

Notice to take depositions in 9
Phillip Howard, president board of election 10
John A Biffle, registrar of election 12
M. S. Greer, judge of election 13
John H. Johnson, clerk of registration and election 14
R. S. Nicholson 14
Samuel Fossett 15
John James, clerk of election 16
Peter Robinson 17
T. T. Angel, postmaster 17

Brazos County :

Argument to take testimony 64
H. P. Downard, judge of election 65
Thomas McCarty, judge of election 67
D. C. Barmore, clerk of election 68
Terill Mosely 69
Ben Brown 70
W. H. Crook 71
J. M. Delafield 72
Thomas D. Wilson 73
C. F. Moore 73
Hammett Hardy 74
John W. Tabor 76
Spencer Ford 76
R. B. Wallace 95

Burleson County :

Peter Blake 80

Brazoria County :

William Masterson 232

C.

Contest, notice of 1
answer to 2
Certificate of election 6
Demand for certificate of election 156

D.

Davis, E. J., Governor :

Certificate of 6, 7
Letter of E. J. Davis 32
Letter of E. J. Davis 58
Letter of E. J. Davis 94

E.

Page.
E. J., Davis, Governor.
Election, orders of 244
Answer of, to protest of citizens 257

F.

Freestone County evidence:
James S. Rogers 97
J. D. Mills, clerk of election 99
A. G. Anderson 101
F. C. McMillen 102
W. M. Walton 158

G.

Grimes County evidence:
Joseph Mangum, judge of election 134
John H. Wilson 137
D. C. Dickson 139
Grand jury, presentment of 141
Benjamin Goodrich 142
G. Morrison 144
R. S. Thomas 146
N. P. Turner 217

Galveston County:
R. R. Lawther 227
Jesse Stancel 228
James L. McKeen 230
Ephraim Jordan 231
Johnson Reed 233
Samuel Dodge 234
Edward McCormick 236
John N. Camp 237
M. C. McLemore 239
Protest of citizens of Galveston to Governor Davis 256

H.

Harris County evidence:
George Goldthwaite 192
W. R. Baker 197
N. P. Hamblin 204
W. C. Wagley 206
James Masterson 207
R. D. Wescott 211
T. W. Lubbock 214
N. P. Turner 217
John A. Cameron 218
Theodore Kosse 219
W. H. Crank 220

Hill County evidence:
George S. Chambers, clerk of election 152
George R. Hart 154
S. L. Hamilton 155
C. S. West 156
House resolutions 8

L.

Limestone County evidence:
W. H. Richardson 105
George L. Hanmeken 111
George A. Watts 114
S. D. Tucker 115
M. N. Mills 116
John R. Henry 117
W. C. Anderson 118
M. A. Tucker 118
John A. Harrington 122

Page.

Limestone County evidence—Continued.
D. M. Pendergast 123
W. J. Mosly 125, 127
John H. Welch, judge of election 125
N. H. Atkinson, clerk of election 128
R. N. Turner 128
R. A. Clefton 129
T. A. J. Childress 132
C. A. Newton 133
J. M. Thurmond 185
John E. Garey 216

M.

Madison County evidence:
John Vernon 78

Milam County evidence:
W. C. Lawrence 80
W. K. Homan 81

N.

Navarro County evidence:
W. A. Lockhart 164
William Mitton 165
John W. Irwin, judge of election 166
R. W. Walton 167
William Saur 168
R. Q. Mills 169
C. M. Winkler 171
William Croft 174
Sam. R. Frost 177
J. L. Halburt 179
Dr. Beaumont 183
Notice of contest 1

R.

Robertson County evidence:
George McNight 84
H. L. Haynes 84
Edward Butler, registrar 85
C. Anschirk 86
J. B. Ellison, district attorney 87
B. F. Hammond 88
M. R. Roland 89
John B. Rector 89
J. R. Scott, judge of election 90
G. S. Whitmore 91
S. A. Waldron 91
Charles Hartel 92
Resolutions of the House of Representatives 8

W.

Walker County evidence:
A. T. McKinny, district attorney 148
J. W. Maxey 149
C. S. West 156

Washington County evidence:
Peter Diller, registrar 22
Charles Childs, judge of election 25
Tully Kemp, judge of election 27
H. Hancock, clerk of election 34
John W. Hackworth, clerk of election 35
O. Crozier 36
John R. Kemp, clerk of election 37
A. M. Hughes 38
H. C. McIntyre 40

Page.

Washington County evidence—Continued.
J. M. Onins 41
Seth Shephard 42
O. H. P. Garrett 44
C. C. Garrett 45
J. B. Robertson 46
J. T. McAdam 48
C. Proetzel 49
J. J. Stockbridge 50
William Kusee 53
J. W. McCowan, sr., judge of election 55
Littleton Smith 59
E. T. Wallace 60
L. H. McNelley 60
R. W. Tarm 62
J. B. McFarland 63
T. G. Davidson 52

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 164.

P. P. PITCHLYNN.

MEMORIAL

OF

P. P. PITCHLYNN,

DELEGATE OF THE CHOCTAW NATION,

UPON

The subject of the claim of the Choctaw Nation to the net proceeds under the award of the Senate of the United States.

APRIL 2, 1872.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Upon the subject of the claim of the Choctaw nation for the amount due them under the award of the Senate of the United States, made on the 9th day of March, 1859, the undersigned, delegate of said nation, respectfully asks to be permitted to call your attention to the following brief statement.

The award gave the Choctaws the net proceeds of the sales of their lands ceded in 1830, so far as sold up to January 1, 1859, deducting costs of survey and sale, and all just and proper expenditures and payments under that treaty, excluding reservations allowed and secured, and estimating all scrip received by them at $1 25 per acre; and it allowed them twelve and one-half cents per acre for the residue of the lands.

By reference to the account as stated in pursuance of the award, you will find (H. Ex. Doc. No. 82, 1st Session 36th Congress, p. 23,) that the whole quantity of land ceded was 10,423,139$\frac{69}{100}$ acres.

For surveying and sale of the whole of this the Choctaws were charged ten cents an acre, $1,042,313 96.

Their reservations allowed and secured were deducted from the whole quantity to the amount of 334,101$\frac{02}{100}$ acres, for which nothing was allowed the Choctaws, though they were made to pay the cost (ten cents an acre) of surveying and selling the same. This is an overcharge against them of $33,410 10.

The quantity of land sold was 5,912,664 $\frac{63}{100}$ acres; of that unsold, (reservations excluded) 4,176,374 $\frac{04}{100}$ acres. For this they were charged ten cents per acre for cost of surveying and selling, and credited twelve and one-half cents an acre; *i. e.*, they were really allowed two and one-

half cents an acre. The award directed the costs of surveying and selling to be deducted only as to the lands sold. The language is explicit—"The proceeds of the sale of such lands as have been sold;" deducting therefrom the costs of their survey and sale. Here is another overcharge of $417,637 40.

There are other charges for certain expenditures, not properly chargeable, which I do not now notice.

The balance due under the award, after straining everything to the utmost against the Choctaws, was $2,981,247 30.

On the 19th of June, 1860, the Committee on Indian Affairs of the Senate, in their report on this account stated—(Sen. Reps. Com. No. 283, 1st Session 36th Cong.)—thought that a further deduction ought to be made for the 5 per cent. on the net proceeds of the sale of the lands which had been paid to the State of Mississippi. The award had specified what deductions should be made from these net proceeds, and had not provided for making the Choctaws pay back moneys which the United States had given to Mississippi. The amount ($362,100 70) could not righteously be deducted.

But, if it could properly be deducted, it represented 295,633 acres, (one-fifth of all that were sold,) and the Choctaws were charged ten cents an acre for the costs of surveying and selling the very land which realized that money, $29,563 32. Suppose all, instead of part, of the net proceeds of lands sold had been given away by the United States, and the committee had advised that, therefore, nothing should be paid the Choctaws on account of them; and suppose, nevertheless, they stood charged with ten cents per acre for surveying and selling them?

The committee also thought that the phrase, "the residue of said lands," in the award, should not be construed to include such as the United States had given away as swamp-lands, and for railroads and school purposes. Why not, one fails to see. The quantity so disposed of was 2,292,766 acres. The award spoke of the lands ceded, allowed the net proceeds of those sold, and twelve and one-half cents an acre "for the residue of said lands." Nobody but an Indian would have to argue that this meant "all that had not been sold, and of which the proceeds were allowed."

Here was another deduction, utterly unjust, of $286,595 75, recommended by the committee. The two deductions left $2,332,560 85. But if anything could be deducted for swamp-lands and others given away, the Choctaws had been charged ten cents an acre for surveying and selling these very lands. Therefore, they were only to get two and one-half cents an acre. On any principle, only that could be deducted, being only $57,319 15 instead of $286,595 75; or if twelve and one-half cents were charged, the ten cents an acre should have been deducted from the charge for expenses of surveying and selling, which would be $229,276 60, and come to the same thing.

As soon as this report was seen, it was objected to by the delegates of the Choctaws, and these gross errors pointed out. They were such as, if insisted on, would have been dishonorable—such as would ruin a merchant or banker, and convict him of fraud and dishonest manipulation. The errors were too plain to be denied, and the report was never called up or acted on. It has not the sanction of the Senate; it is no part of the award, and no part of the account, and the deductions it proposed would have been simply fraudulent.

I earnestly urge upon Congress that these sums are too large for the Choctaws to lose; and most especially urge that they shall not, in consideration of a sum less than is due them, be required to receipt in full,

or to relinquish these amounts. No honorable man in Congress would, for all the wealth of the Indies, so deal with his creditor. Is not a nation's honor as dear to her sons as their own?

The award of the Senate was made on the ninth day of March, A. D. 1859. It was as final and conclusive as a decree in chancery, being strictly within, and in accordance with, the terms of the submission. Nothing remained but to take and state the account in conformity to it. This was a merely clerical process. The award itself neither could be changed, nor ever was changed afterwards. The report of the Secretary of the Interior (who was, in regard to it, precisely like a master in chancery) was not directed by the award to be made to the Senate, but to Congress; and it was made on the 8th of May, 1860, to the House of Representatives and Senate separately. Thus the Senate understood and intended its award to be final. It had performed the duty imposed on it, and its duties as arbitrator were ended. It was, as to them, *functus officio.*

Consequently, and because the chairman of its Committee on Indian Affairs at once saw and admitted his error, the report of the Committee on Indian Affairs, made on the 19th of June, 1860, (principally to expose the absurdity of a suggestion made by the Commissioner of Indian Affairs,) was never acted on; and the award remained inviolate, and the account taken under it unimpeached and without exception to it; or, if the committee's recommendations as to deductions further to be made were in the nature of exceptions, they were abandoned, and if brought before the Senate for its action, they would have been overruled.

The Choctaw Nation instructs its delegate to urge upon the Senate and House of Representatives its just claim to receive interest upon the sum of $2,981,247 30, less $250,000 paid in money in March, 1861, and $250,000 at that time appropriated to be paid in bonds not then issued, from the 9th day of March, 1859, the date of the award, until it shall be paid; and also interest during the same time upon said $250,000 in bonds.

The Choctaw Nation presents this claim to interest with entire confidence in its legal right to be paid interest, and also because it is required by the principles of the simplest and commonest justice and good faith.

The United States have, since the date of the said award, had the use of these moneys, belonging to the Choctaw people, which, if then paid, would have been paid in gold, and have used them, during part of the time, in purchasing their own bonds, and so relieving themselves of the payment of interest. And, if interest is not paid the Choctaws, the United States will, by having unjustly delayed payment, have had the use of the moneys of the Choctaws, and the benefit of interest thereon, for several years, for nothing, thus profiting pecuniarily by declining and delaying to pay an honest debt, absolutely in judgment as to this award and these moneys. The relation between the United States and the Choctaw Nation is that of debtor and creditor, not that of sovereign and subject, or guardian and ward; and moneys in judgment always bear interest.

The treaty of 1855 was a solemn engagement on the part of the United States that they would promptly pay to the Choctaw Nation whatever should be awarded to them by the Senate, whose decision and award were to be final.

The United States have never considered themselves bound to pay interest on moneys due by them to individuals; but this has been justified upon the legitimate presumption that the Government is always

ready to pay all just claims against the United States. That presumption no longer obtains, when the claim or debt is in judgment against it, by the award of a judge or arbitrator selected by itself, and the judgment is final. Then it cannot be presumed to be willing and ready to pay what it does not pay, and that the delay of payment whereof is procured by misstatements of facts by its own advocates, paid by it to legislate and do justice.

There is not a State in the Union, nor perhaps a country in the world, in which debts in judgment do not bear interest. As to such a debt the the Government has no superior privilege, exemption, or prerogative. It might as well refuse to pay the debt as to refuse to pay the interest. For it keeps from the party that which is his when it withholds the interest, equally as when it withholds the principal adjudged. For, if it had paid the principal punctually, the creditor would have had the use and profit of the money, and have been saved the losses caused by not having it to use, and the debtor would not have had the use of it, nor the profit accruing to them from that use. A great writer, Domat, thus states the law of reason and justice on this point: "It is a natural consequence of the general engagement to do wrong to no one, that they who cause any damages by failing in the performance of that engagement, are obliged to repair the damage which they have done. Of what nature soever the damage may be, and from what cause soever it may proceed, he who is answerable for it ought to repair it by an *amende* proportionable either to his fault, or to his offense or other cause on his part, and to the loss which has happened thereby." (Domat, Part I., Book III., Tit. V., 1,900, 1,903.)

Unless the United States are prepared to repudiate this principle, and to admit and proclaim that they are ready and willing "to do wrong" to their judgment creditor, the Choctaw Nation, they will pay the interest upon the moneys adjudged by the Senate, as well as the principal, and not rejoice at the saving of a sum of money at the expense of the nation's character for justice and integrity and honest dealing.

"Interest" is in reality, in justice, in reason, and in law, too, a part of the debt due. It includes, in Pothier's words, "la perte que quelq'un a faite, et le gain qu'il a manqué de faire,"—the loss which one has suffered, and the gain which he has failed to make. The Roman law defines it as 'quantum mea interfruit; id est, quantum mihi abest, quantumque lucraci potui. The two elements of it were termed 'lucrun cessans et damnum emergens.' The payment of both is necessary to a complete indemnity.

Interest, Domat says, is the reparation or satisfaction which he who owes a sum of money is bound to make to his creditor, for the damage which he does him, by not paying him the money he owes him.

It is because of the universal recognition of the justice of paying, for the retention of moneys indisputably due and payable immediately, a rate of interest considered to be a fair equivalent for the loss of its use, that judgments for money everywhere bear interest. The creditor is deprived of this profit, and the debtor has it. What greater wrong could the law permit, than that the debtor should be at liberty indefinitely to delay payment, and during the delay have the use of the creditor's moneys for nothing? They are none the less the creditor's moneys because the debtor wrongfully withholds them. He holds them, in reality and essentially, in trust; and when was a trustee not bound to pay interest on moneys so held?

On the question of allowing interest on amounts of damages proven and adjudicated, the Choctaw people respectfully refer to the exhaustive

consideration of that question in the cases of Letitia Humphreys and Robert Harrison, before the Court of Claims in 1856 and 1857, and to be found in the report of the Court of Claims, No. 127, to the House of Representatives, at the first session of the Thirty-fifth Congress; to the opinion and decision of the judge of the district court, at pp. 53 to 57; opinion of Mr. Webster, pp. 75 to 78; opinion of Judge Bibb, pp. 84 to 91; statement of cases of Encomium and Cowet, pp. 121 to 124; dissenting opinion of Judge Scarburgh, pp. 215 to 221.

It will be seen, by reference to these pages, that the United States have always claimed interest in behalf of their citizens having claims for damages and injury against foreign nations; and they insisted upon it under the treaty of 1794, and under that of Ghent, under the former of which interest was allowed as part of a just and adequate compensation by those great judges, Sir William Scott and Dr. Nicholl; that interest was allowed under the treaty of 1795 with Spain, and upon claims against Brazil, and under the treaties of 1839 and 1848 with Mexico.

It will also be seen that in Del. Col. *vs.* Cunoto, (3 Dallas, 333,) a case of capture, interest was allowed at the rate of 10 per cent. per annum, which was also sanctioned in the Apollon, (9 Wheat., 376,) as to cases where the property was sold under disadvantageous circumstances, or had not arrived at the country of its destination—the allowance of such interest being in lieu of the probable profits.

And in Eakins *vs.* East India Company, (P. Wms., 395,) on a bill to account for a ship and cargo wrongfully taken from the plaintiff in the East Indies by a company that had almost national powers, and maintained a civil government over a great country, and a standing army, and where the complainant demanding Indian interest, which was 12 per cent., had "rested on his bill" thirteen years, the chancellor said, "If a man takes my money by way of loan, he ought to answer interest; but if he takes my money from me wrongfully, he ought, *a fortiori*, to answer interest; and it is still stronger where one by wrong takes from me my goods which I am trading with." The interest was decreed at the Indian rate, and the decree was affirmed in the House of Lords. (2 Bro. P. C., 72; 2 Eq. Cas. Abr., ch. 1, 534.)

The Senate, in awarding to the Choctaws the net proceeds of the sales of their lands, included no interest in these net proceeds; nor did the committee, in estimating the damage sustained by the failure of the Choctaws (through the fault of the Government and officers of the United States) to secure their reservations of land, in 1830 and 1831, include any interest on the arbitrarily assumed value of those reservations. If the moneys had been awarded and paid in 1831, twenty-eight years before they were awarded, and more than forty years ago, they would, even then, have been a very inadequate compensation. Surely, after they were awarded and in judgment, they bear interest, as matter of law and right. Upon the claim of the State of Massachusetts, in 1869, for interest upon the principal sum before then paid her for advances made in the war of 1812, the committee of the Senate (Report No. 4, Forty-first Congress, first session, April 1, 1869) considered that the delay of payment of the principal, for twenty-two years after a report in favor of paying it, gave the State a right to ask Congress to look with favor on the claim and act generously.

In a proper case, the Choctaw people might appeal with confidence to the generosity of Congress. In this case they do not need to do so. They present a right, and ask simply for what is their just due—the amount of the judgment rendered in their favor, with such interest upon

it as in every civilized nation under heaven allowed by law to the creditor, upon delay of payment of moneys adjudged against his debtor. They will not deem it just or honest, at the end of more than forty years, to be paid part of the moneys that have all the time been justly owing to them, without interest even from the time when they were solemnly adjudged to them, and the United States placed in legal default. Since that day, as a man who, in possession of the lands of another, receives the fruits that are the property of the lawful owner, does not satisfy the demands of justice by restoring the lands alone, after long delay, he must, to be honest, account also for the fruits, for that they were not his own; since that day, the United States have not only deprived the Choctaw people of the fruits of the moneys adjudged to them, but have taken these fruits to themselves, and, upon the same eternal principles of justice, must account for them, or do a grievous wrong. "What," Lord Coke asked, "*is* the land but the *profits* thereof?" The same question may be, with the same perfect truth, asked in this day, as to moneys. If one will keep back the moneys of another, he must pay for their use; and when the amount has been ascertained and adjudged, there is nothing in the sovereignty of a State or nation that can exempt it from the obligation that justice and reason create.

P. P. PITCHLYNN,
Choctaw Delegate.

WASHINGTON, D. C., *April* 1, 1872.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC No. 165.

ADMISSION OF UTAH INTO THE UNION.

MEMORIAL OF THE CONVENTION

TO FRAME A

CONSTITUTION FOR THE ADMISSION OF UTAH INTO THE UNION AS A STATE,

CONVENED

At Salt Lake City, February 19, 1872; *with the constitution of the State of Deseret, adopted in convention March* 2, 1872, *ratified by vote of the people March* 18, 1872.

APRIL 2, 1872.—Referred to the Committee on the Territories and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled.

GENTLEMEN: Your memorialists, the citizens of the United States in the Territory of Utah, by their delegates in convention now assembled, respectfully present this their memorial, humbly praying for admission into the Federal Union as a free and sovereign State, under the name and style of the State of Deseret, with the constitution herewith presented.

The history of the privations and struggles and achievements of the pioneers of Utah is a part of the history of the country and need not be recapitulated here; but some of the disadvantages of the territorial form of government, under which your memorialists have lived for the last twenty-two years, are earnestly submitted to your consideration.

Under this form, every important civil action is liable to be appealed to the United States Supreme Court, where its final decision may be delayed for years, and every act of the legislature which escapes the absolute veto of the governor is subject to the supervisory legislation of Congress.

It has been decided that the legislative assembly of the Territory of Utah has no power to create or organize courts of original jurisdiction, and the courts provided by Congress under the territorial system are insufficient to transact the business of the Territory. Persons accused of crime are denied bail and refused trial, while cases rapidly accumulate upon the civil calendar and litigants are thereby practically denied justice.

It is the system of government, rather than those who administer the system, which should be censured for this state of affairs.

A territorial or colonial system, under which a government is pro-

vided by a remote power, and without the consent of the governed, is inherently oppressive and anti-republican. The theory of government which provides executive and judicial officers having no responsibility to the people they are called to rule and to whom their acts are known, but to a distant and imperfectly informed authority, is admittedly a false one. The officer assigned to a Territory, bearing no introduction save his commission from the General Government, finds no interest in common with the people to whom he presents himself. His past life may be and usually is a sealed book to each member of the community, toward whom he is, by virtue of his commission, authorized to assume the most delicate and important relations. With no confidence inspired by long acquaintance, the stranger becomes the arbiter of the destinies of a whole community. As governor or judge, he holds the lives and property of a people—united to him by no ties of kindred or neighborhood—in his hands. Even if selected from among the people, he still looks to the parent government for his compensation, and relies for his tenure of office upon influences far removed from the scene of his labor, rather than upon his own conduct; he is thus naturally led to give small consideration to the wishes or necessities of those who are the sole sufferers under his follies and mistakes.

It is plain that a system which practically denies to the citizen the privilege of enacting and administering those domestic laws which are necessary for the safety and progress of the community, which deprives him alike of representation at Washington and local sovereignty, which fails to furnish him with adequate judicial facilities, and subjects him to tedious and expensive delays in the final arbitrament of his rights, is a system most antagonistic to the spirit of representative republican government, and most injurious to the interests of progress.

From this state of things there is no redress except in the manner now proposed. The remedy for the evils suggested is found solely in a republican form of government—a government created by the people governed, and to a part in which every citizen is eligible.

Utah has outgrown those conditions under which a territorial form of government was equal to her necessities, and has reached a period of corporate existence when a State organization is essential for the accommodation of her business interests. These interests are numerous and rapidly expanding. Within the borders of the Territory lie vast deposits of inexhaustible mineral wealth, which are destined soon to equal in extent and richness of development those of any neighboring State or Territory.

The coal-fields of the Wasatch range already give promise of rivaling many of the coal-regions of the older States. Rich veins and lodes of silver have attracted hither capitalists of Europe, and already many leading silver mines of Utah are known and favorably quoted in the stock-boards of London and other European marts. The smelters of galena from New York, Boston, Chicago, San Francisco, and other cities of the Union are looking to Utah as the source of a large part of their future supplies.

Iron-ores of the finest quality exist in such vast masses in the southern portion of this Territory as to rise to the dignity of iron mountains, and it is no mere fancy to assert that these ores will, in a few years, furnish the materials for all furnaces, mills, and other establishments in the new State requiring this metal, and will warrant the erection at an early day of rolling-mills for the production of railroad-iron.

The number of men now either actually engaged or interested in mines and mining within the borders of Utah exceeds twenty thousand; the

amount of foreign capital invested in her silver mines has been fairly estimated at over fifteen million dollars; and the number of tons of high-grade ore and crude bullion shipped by rail from the Territory during the year 1871, a large part of which entered into our national exports, has reached nine thousand tons.

The full and free development of all these interests demands a State government.

While in California, Colorado, Nevada, and Montana, mining preceded agriculture, in Utah the cultivation of the soil was the first pursuit which occupied the attention of citizens. From the extreme northern boundary of the Territory to the river Colorado, in the south, a distance but little short of five hundred miles, numerous settlements have been formed, and a system of agriculture has been adopted which is admirably suited to the nature of the climate and soil. Throughout this extensive region the water, by means of costly canals and ditches, has been conducted from the mountains and spread over the land, and bleak, barren deserts have been converted into fruitful fields, and the solitude of the wilderness has been made musical with the hum of thrifty industry. Utah, in agricultural and manufacturing wealth, compares favorably with many of the older-settled portions of the continent.

Your memorialists respectfully suggest that Utah, having thus shown her capacity to sustain a large population from her agricultural and manufacturing resources, possesses every requisite, now that her mineral wealth is found to be of almost unexampled richness, to make her future prosperous and great. With well-developed agricultural, manufacturing, mining, and commercial interests, receiving the attention of her citizens; with her internal improvements of railroads, telegraph lines, canals, &c., the advantages of the great continental highway, closely connecting her with her sisters on the east and west, she may expect, if permitted to assume the robes of statehood, to enter upon a career of prosperity unsurpassed by any of the younger States.

The population of Utah exceeds to a considerable extent that of several other Territories which have been by your honorable body admitted to statehood.

The increasing mineral resources, the development of which has been seriously retarded by conflicting interests constantly arising under our present system; the rapidly increasing agricultural, railroad, commercial, and mechanical interests, together with the satisfactory condition of financial affairs throughout the Territory—showing as they do in every department an entire freedom from debt; the peaceful relations which the inhabitants have and still maintain with the surrounding Indian tribes; the home and foreign capital which is being daily invested in our rich though comparatively undeveloped mines, all seem to point to the one great end, the need of a permanent State government.

By the establishment of such a government our permanent prosperity will be made certain; stability will be impressed on all our public institutions; capital, now withheld because of possible changes, will flow into the country a rich and plenteous stream, imparting life and activity to every branch of trade and every department of useful industry. Our agricultural, manufacturing, mineral, commercial, and railroad interests will be strengthened and enlarged; enterprising sojourners will become permanent residents; elements of disorder, now bold and defiant through encouragement from collisions between opposing judicial departments, will subside before the power of justice, one and undivided; peace and harmony will take the place of discord and confusion; education, hitherto unaided by State patronage, will extend its influence to

every family, and the people of these mountain valleys, no longer harassed and perplexed by the errors of officials who are unacquainted with their wants, freed from all doubt as to the good will of the parent government, and brought by the Federal compact into perfect accord with the rest of the republic, will move forward in the grand march of national progress, as loyal, true, free, and liberal a commonwealth as any among the glorious sisterhood.

The policy of Congress has always been to accord a State government to a Territory so soon as the community asking such privilege gave evidence of its ability to sustain the burden of self-government. If in any instance a mistake has been made in the admission of a State, where subsequent growth has failed to justify the expectations of the country, we submit that the results of such mistake should not be charged to Utah, which to-day exhibits, not in expectation, but in possession, the requisite population and resources to entitle her to enter the American Union.

The constitution of the proposed State, which is presented herewith, looks to the development of those improvements in political science which elsewhere excite public attention; for it will be observed that it provides for minority representation, impartial suffrage, and equal public educational facilities, without distinction of race, color, religion, or citizenship.

If it be deemed essential to the welfare of the people of the proposed State that other guarantees should be obtained than those contained in this constitution, an opportunity is afforded in the ordinance to propose such conditions as honorable men may accept.

We submit in conclusion that the interests of the people inhabiting the Territory of Utah, as well as those of the nation, will be advanced by the speedy admission of the proposed State, and to that end your memorialists invoke your early and favorable action.

Adopted March 2, 1872.

E. M. BARNUM,
President of the Convention.

ROBT. L. CAMPBELL, *Secretary.*

ORDINANCE.

We, the people of the Territory of Utah, do ordain as follows, and this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Deseret:

First. That we adopt the Constitution of the United States.

Second. That there shall be in this State neither slavery nor involuntary servitude, otherwise than in the punishment of crimes whereof the party shall be duly convicted.

Third. That perfect toleration of religion shall be secured, and no inhabitant of said State shall ever be molested, in person or property, on account of his or her mode of religious worship.

Fourth. That the people inhabiting said Territory do agree and declare, that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to resi-

dents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

Fifth. That such terms, if any, as may be prescribed by Congress as a condition *as a condition* for the admission of the said State into the Union, shall, if ratified by a majority vote of the people thereof, at such time and under such regulations as may be prescribed by this convention, thereupon be embraced within and constitute a part of this ordinance.

PREAMBLE.

We, the people of the State of Deseret, grateful to Almighty God for our freedom, in order to secure its blessings, insure domestic tranquillity, and form a more perfect government, do establish this

CONSTITUTION.

ARTICLE I.—DECLARATION OF RIGHTS.

SECTION 1. In republican governments all men should possess their natural rights, among which are those of enjoying and defending their lives and liberty, acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness.

SEC. 2. All political power is inherent in the people, and all free governments are founded in their authority and instituted for their benefit; therefore they have an inalienable right to institute government, and to alter, reform, or change the same, when their safety, happiness, and the public good require it. But the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers.

SEC. 3. The right of trial by jury shall be secured to all and remain inviolate forever; but a jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law; and in civil cases, if three-fourths of the jurors agree upon a verdict, it shall stand and have the same force and effect as a verdict by the whole jury: *Provided*, The legislature, by a law passed by a two-third vote of all the members elected to each branch thereof, may require a unanimous verdict notwithstanding this provision.

SEC. 4. The free exercise and enjoyment of religious profession and worship shall, without discrimination or preference, forever be allowed in this State; and no person shall be rendered incompetent to be a witness or juror on account of opinions of matters of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or other crimes, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted; nor shall witnesses be unreasonably detained.

SEC. 7. All persons shall be bailable by sufficient sureties; unless for capital offenses, when the proof is evident or the presumption great.

SEC. 8. No person shall be tried for a capital or other infamous crime, (except in cases of impeachment, and in cases of the militia when in actual service, and the land and naval forces in time of war, and in cases

of petit larceny, under the regulation of the legislature,) except on presentment or indictment of a grand jury: *Provided*, That the legislature may, by a two-third vote of all the members elected to each house thereof, abolish the grand jury system, anything in this section to the contrary notwithstanding; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense, nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation having been first made or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

SEC. 9. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libels, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted or exonerated.

SEC. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition for redress of grievances.

SEC. 11. The military shall be subordinate to the civil power, and no standing army shall be maintained by this State in time of peace.

SEC. 12. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner to be prescribed by law.

SEC. 13. Representation shall be apportioned according to population.

SEC. 14. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws exempting a reasonable amount of property from seizure or sale for payment of any debts or liabilities hereafter contracted; and there shall be no imprisonment for debt, except in cases of fraud, libel, or slander, and no person shall be imprisoned for a militia fine in time of peace.

SEC. 15. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 16. Foreigners who are, or who may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritence of property as native-born citizens.

SEC. 17. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

SEC. 18. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizure and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons and thing or things to be seized.

SEC. 19. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. And no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 20. The right of citizens to keep and bear arms, for common defense, shall not be questioned.

SEC. 21. No religious test shall ever be required as a qualification for holding any office of honor, trust, or profit under this State.

SEC. 22. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.—RIGHT OF SUFFRAGE.

SECTION 1. Every citizen of the United States, male and female, (not laboring under the disabilities named in this constitution,) of the age of twenty-one years and over, who shall have resided in the State six months, and in the county thirty days, next preceding any election, shall be entitled to vote for all officers that now are, or hereafter may be, elected by the people, and upon all questions submitted to the electors at such elections: *Provided*, That no person who has been or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no idiot or insane person, shall be entitled to the privilege of an elector.

SEC. 2. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of the United States or of the high seas, nor while a student of any seminary of learning, nor while kept at any almshouse or other asylum, nor while confined in any public prison.

SEC. 3. During the day on which any general election shall be held no qualified elector shall be arrested by virtue of any civil process; and no elector shall be obliged to perform military duty on the day of such election, except in time of war or public danger.

SEC. 4. All elections by the people shall be by ballot; and all elections by the legislature, or by either branch thereof, shall be *viva voce*.

SEC. 5. Provision shall be made by law for the registration of the names of the electors within the counties of which they may be residents, and for the ascertainment, by proper proofs, of the persons who shall be entitled to the right of suffrage, as hereby established, to preserve the purity of elections, and to regulate the manner of holding and making returns of the same; and the legislature shall have power to prescribe by law any other or further rules or oaths as may be deemed necessary, as a test of electoral qualification.

SEC. 6. All persons qualified by law to vote for representatives to the legislative assembly of the Territory of Utah at the date of the submission of this constitution, shall be entitled to vote upon the question of adopting or rejecting the same.

ARTICLE III.—DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Deseret shall be divided into three separate departments: the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV.—LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a legislature, which shall consist of a senate and house of representatives, and the sessions thereof shall be held at the seat of government.

SEC. 2. The sessions of the legislature shall be biennial, and, except at the first session thereof, shall commence on the second Monday in January next ensuing the election of members of the house of representatives, unless the governor shall convene the legislature by proclamation.

SEC. 3. The members of the house of representatives shall, except at the first election, be chosen biennially, by the qualified electors of their respective counties, or districts, on the first Monday in August, and their term of office shall be two years from the day next after their election.

SEC. 4. The senators shall be chosen at the same time and places as the members of the house of representatives, by the qualified electors of their respective counties or districts, and their term of office shall be four years from the day next after their election: *Provided, however*, That the senators elect at the first session of the legislature shall be divided equally into two classes as nearly as may be; and the seats of senators of the first class shall be vacated at the expiration of two years, those of the second class at the expiration of four years, so that one-half, as nearly as possible, shall be chosen biennially thereafter. And in case of increase in the number of senators, they shall be so annexed by lot to one or the other of the two classes as to keep them as equal as practicable.

SEC. 5. The first legislature shall consist of thirteen senators and twenty-six representatives, and shall be apportioned as prescribed by law. The number of senators and representatives may be increased from time to time: *Provided*, The number of representatives shall never be less than twice that of the senators: *And provided further*, That the senators shall never exceed thirty in number. The apportionment of the members of both houses shall be as prescribed by law.

SEC. 6. No person shall be a senator who shall not have attained the age of twenty-five years, or a representative who shall not have attained the age of twenty-one years. No person shall be a senator or representative who shall not be a citizen of the United States, and who, except at the first election, shall not have been two years a resident of this State, and for one year next preceding his election a resident of the county or district in which he is elected. No person holding any office of profit or trust under authority of the United States, or of this State, shall have a seat in the legislature: *Provided*, That appointments in the State militia, and the offices of notary public, justice of the peace, United States commissioner, commissioner of deeds, and postmasters, (whose annual compensation does not exceed five hundred dollars,) shall not, within the meaning of this section, be considered offices of profit or trust.

SEC. 7. The members of the legislature shall, before entering upon their official duties, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Deseret, and will faithfully discharge the duties of senator (or representative) according to the best of my ability, (if on oath,) so help me God; (if an affirmation,) under the pain and penalty of perjury."

SEC. 8. Each house shall judge of the qualifications, elections, and returns of its own members, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elected, expel a member.

SEC. 9. No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which

shall have been increased, during such term, except such office as may be filled by elections by the people.

SEC. 10. Members of the legislature shall be privileged from arrest on civil process during the session thereof, and for fifteen days next before the commencement of each session.

SEC. 11. When a vacancy occurs in either house the governor shall order an election to fill such vacancy.

SEC. 12. A majority of all the members elected to each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as such house may prescribe.

SEC. 13. Each house shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either house on any question shall, at the desire of any five members present, be entered on the journal.

SEC. 14. The door of each house shall be kept open during its session, except the senate, while sitting in executive session; and neither shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be holding their session.

SEC. 15. Any bill may originate in either house of the legislature, and all bills passed by one may be amended or rejected by the other.

SEC. 16. Each law enacted by the legislature shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be revised or amended by reference to its title only; but in such case, the act as revised, or section as amended, shall be re-enacted and published at length.

SEC. 17. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills or joint resolutions so passed, shall be signed by the presiding officers of the respective house.

SEC. 18. No money shall be drawn from the treasurer except as appropriated by law.

SEC. 19. In all cases where a general law can be made applicable, the law shall be general and of uniform operation, and provision shall be made by law for bringing suit against the State.

SEC. 20. The enacting clause of every law shall be as follows: "Be it enacted by the legislature of the State of Deseret;" and no law shall be enacted except by bill.

SEC. 21. The legislature may establish a uniform system of county and township government.

SEC. 22. The first regular session of the legislature may extend to ninety days, but no subsequent regular session shall exceed sixty days, nor shall any session convened by the governor exceed twenty days.

SEC. 23. The members and officers of the legislature shall receive for their services a compensation to be fixed by law, and no increase of such compensation shall take effect during the term for which the members and officers of either house shall have been elected.

SEC. 24. Every bill passed by the legislature shall be presented to the governor. If he approve it, he shall sign it, whereupon it shall become a law; but if not, he shall return it, with his objections, to the house in which it originated, which house shall cause such objection to be entered upon its journal, and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by a vote of two-thirds of the members elected to each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within five days after it shall have been presented to him, (Sunday excepted,)

exclusive on which he received it, the same shall be a law in like manner as if he had signed it, unless the legislature, by its final adjournment, prevent such return, in which case it shall not become a law unless the governor, within five days after the adjournment, shall file such bill, with his approval thereof, in the office of the secretary of state.

SEC. 25. At all elections for representatives each qualified elector may cast as many votes for one candidate as there are representatives to be elected in the county or district, or may distribute the same among any or all the candidates, and the candidates receiving the highest number of votes shall be declared elected.

ARTICLE V.—EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the State shall be vested in a governor.

SEC. 2. The governor shall be elected by the qualified electors at the time and places of voting for the members of the legislature, and shall hold his office for the term of two years, and until his successor shall be qualified.

SEC. 3. No person shall be eligible to the office of governor who is not a qualified elector, and who at the time of such election has not attained the age of twenty-five years; and who, except at the first election under this constitution, shall not have been a citizen, resident of this State, for two years next preceding the election.

SEC. 4. The returns of every election for governor and other State officers, voted for at the general election, shall be sealed up and transmitted to the seat of government, directed to the secretary of state, and on the third Monday of September next, succeeding such election, the chief justice of the supreme court, and the associate justices, or a majority thereof, shall meet at the office of the secretary of state, and open and canvass the election returns for governor, and all other State officers, and forthwith declare and publish the result, and notify the officers-elect of their election. The persons having the highest number of votes for the respective offices shall be declared elected; but in case two or more have an equal, and the highest number of votes for the same office, the legislatnre shall, by joint vote of both houses, elect one of said persons to said office.

SEC. 5. The governor shall be commander-in-chief of the military forces of this State, and may call out the same to execute the laws, suppress insurrection, and repel invasion; when the governor shall, with the consent of the legislature, be out of the State in time of war, and at the head of a military force thereof, he shall continue commander-in-chief of the military forces of the State.

SEC. 6. He shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 7. When any office shall from any cause become vacant, and no mode prescribed by the constitution or laws for filling such vacancy, the governor shall have power to fill such vacancy by appointment, which shall expire when such vacancy shall be filled by due course of law.

SEC. 8. He shall see that the laws are faithfully executed.

SEC. 9. The governor may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when organized, the purpose for which they have been convened.

SEC. 10. He shall communicate, by message, to the legislature, at every regular session, the condition of the State, and recommend such measures as he may deem expedient.

SEC. 11. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house for moving the adjournment, adjourn the legislature, by proclamation, to such time as he thinks proper, not beyond the first day of the next regular session.

SEC. 12. The governor shall have power to grant reprieves, commutations, and pardons, after conviction of all offenses except impeachment, subject to such regulations as may be provided by law.

SEC. 3. A lieutenant governor shall be elected at the same time and places, and in the same manner as the governor, and his term of office and his eligibility shall also be the same. He shall be the president of the senate; but shall only have a casting vote therein. In case of impeachment of the governor, or his removal from office, death, inability to discharge the duties of said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the disability shall cease; and in case of the disability of both the governor and lieutenant governor, the powers and duties of the executive shall devolve upon the secretary of state, until such disability shall cease or the vacancy be filled.

SEC. 14. A secretary of state, a treasurer, an auditor of public accounts, a surveyor general, a superintendent of public instruction, and an attorney general shall be elected at the same time and places, and in the same manner as the governor; the term of office of each shall be the same as is prescribed for the governor. And an elector shall be eligible to any of said offices except the secretary of state, whose qualifications shall be the same as those of the governor.

SEC. 15. There shall be a seal of the State, which shall be called the "great seal of the State of Deseret," which shall be kept by the secretary of state.

SEC. 16. All grants and commissions shall be in the name and by the authority of the State of Deseret, and shall be signed by the governor and countersigned by the secretary of state, who shall affix the great seal of State thereto.

SEC. 17. The secretary of state shall be the custodian of the official acts of the legislature, and shall keep a true record of the proceedings of the executive department of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature.

SEC. 18. The governor, secretary of state, and the attorney general shall constitute a board of State prison commissioners, which board shall have supervision of all matters connected with the State prison as may be provided by law. They shall also constitute a board of examiners, with power to examine all claims against the State, (except salaries or compensations of officers fixed by law,) and perform such other duties as may be prescribed by law.

SEC. 19. The secretary of state, State treasurer, auditor of public accounts, surveyor general, superintendent of public instruction, and attorney general, shall perform such other duties as may be prescribed by law.

ARTICLE VI.—JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a su-

preme court, circuit courts, probate courts, municipal courts of incorporated cities, and in justices of the peace.

SEC. 2. At the first general election there shall be elected, by the qualified electors of this State, four circuit judges, who shall continue in office two, four, six, and eight years respectively, from and including the first Monday in January next succeeding their elections and until their successors are elected and qualified. They shall meet as soon as practicable after their election and qualification, and at their first meeting shall determine by lot the term of office each shall fill, and circuit in which each shall travel, and thereafter, when vacancies occur, the same shall be filled at the general election: *Provided*, That the legislature may provide by law that the judges shall alternate in the various circuits.

SEC. 3. The circuit judges shall, until otherwise provided by law, constitute the supreme court. When a case is appealed from the decision of a circuit court, the judge thereof shall not sit for the hearing of that case as a justice of the supreme court, but said case shall be heard and determined by the other three, and the concurrence of two of them shall be necessary to render a decision. The legislature at any time shall have power to increase the number of circuits in this State, and provide for the election of judges to fill them, and also to reorganize the supreme court, and provide for the election and tenure of office of the justices thereof, who shall not be required to perform the duties of circuit judges.

SEC. 4. The supreme court, whenever it shall be organized, as provided for in section three, shall consist of a chief justice and two associate justices, a majority of whom shall constitute a quorum. The legislature, by a majority of all the members elected to each branch thereof, may provide for the election of two additional associate justices, and if so increased, three shall constitute the quorum. The concurrence of a majority of the whole court shall be necessary to render a decision.

SEC. 5. For the purpose of organizing the supreme court, as contemplated in section three, the circuit judges shall meet as soon as practicable after their election and qualification, and at their first meeting shall determine, by lot, the term of office each shall fill, and the justice drawing the shortest term shall be chief justice, and after the expiration of his term, the one having the next shortest term shall be chief justice, after which the senior justice in commission shall be chief justice. And in case the commissions of any two or more of said justices shall bear the same date, they shall determine by lot who shall be chief justice.

SEC. 6. The State shall be divided into four judicial districts; the first to be composed of the counties of Washington, Kane, Iron, Beaver, Piute, Sevier, Millard, and San Pete; the second, of the counties of Juab, Utah, Tooele, Wasatch, and Summit; the third, of the counties of Salt Lake, Davis, and Weber; the fourth, of the counties of Box Elder, Cache, Rich, and Morgan; and the legislature may provide by law for an alteration of the boundaries of the judicial circuits, as herein prescribed, and for the election of the judges therein, by the qualified electors of the respective circuits.

SEC. 7. The supreme court shall have appellate jurisdiction in all cases of *quo warranto*, *mandamus*, *prohibition*, *certiorari*, and *habeas corpus*, and in all civil cases, both in law and equity, where the amount in controversy exceeds three hundred dollars; and in all criminal cases where the fine exceeds fifty dollars or the imprisonment is sixty days or upward; and in all cases in which is involved the title or right of possession to, or the possession of, real estate or mining claims, or the legality of any tax,

impost, assessment, toll, or municipal fine. The court shall also have power to issue all writs necessary or proper to the complete exercise of its appellate jurisdiction; and each of the justices shall have power to issue writs of *habeas corpus* to any part of the State, upon petition by, or on behalf of, any person held in actual custody, and may make such writs returnable before himself or the supreme court.

SEC. 8. There shall be a probate judge elected by the qualified electors of each county at the general election, whose term of office shall be four years, and until his successor is elected and qualified.

SEC. 9. The legislature shall determine the number of justices of the peace to be elected in each precinct of the State, and fix by law their term of office, their duties and responsibilities.

SEC. 10. The jurisdiction, both original and appellate, of the circuit and all inferior courts, shall be as prescribed by law.

SEC. 11. The judges of the supreme and circuit courts shall be ineligible to any office, other than a judicial office, during the term for which they shall have been elected.

SEC. 12. No person shall be eligible to the office of supreme or circuit judge who is not a citizen of the United States, and has not attained to the age of twenty-five years, and who, except at the first election, has not been a resident of this State at least two years next preceding his election.

SEC. 13. The judges of the supreme and circuit courts shall each receive quarterly for their services a compensation to be fixed by law, which shall not be increased or diminished during the term for which they shall have been elected.

SEC. 14. There shall be one or more terms of the circuit courts held annually at the county-seat in each county, at such times as shall be provided by law, and there shall be not less than two terms of the supreme court held annually, which terms shall be held at the seat of government.

SEC. 15. The style of all process shall be "The State of Deseret," and all prosecutions shall be conducted in the name and by the authority of the same.

ARTICLE VII.—ON IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The house of representatives shall have the sole power of impeachment, and a majority of all the members elected must concur therein. All impeachments shall be tried by the senate, and when sitting as a court of impeachment, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

SEC. 2. No person shall be convicted without the concurrence of two-thirds of all the senators elected. But judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit under the government of this State.

SEC. 3. When an impeachment is directed, the house of representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.

SEC. 4. The party, whether convicted or acquitted, shall nevertheless be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 5. In all impeachment trials the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation, and to have a copy thereof, to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf.

SEC. 6. All civil officers shall be liable to impeachment for corrupt conduct in office, or for crimes or misdemeanors.

SEC. 7. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

SEC. 8. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of such officer until he shall be acquitted, or until the election and qualification of a successor.

SEC. 9. The legislature shall provide by law for the removal of any officer elected by a county, township, mining or school district, in such manner and for such cause as to them shall be deemed just and proper.

ARTICLE VIII.—MUNICIPAL AND OTHER CORPORATIONS.

SECTION 1. The legislature shall pass no special act in any manner relating to corporate powers, except for municipal purposes.

SEC. 2. The legislature shall provide for the organization of cities and towns, and other corporations, by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, except for procuring supplies of water and assisting in the construction of railroads.

SEC. 3. All real property and possessory rights to the same, as well as personal property in this State, belonging to corporations now existing, or hereafter created, shall be subject to taxation, the same as property of individuals: *Provided*, That the property of corporations formed for municipal, charitable, religious, or educational purposes may be exempted by law.

SEC. 4. Dues from corporations shall be secured by such means as may be prescribed by law: *Provided*, That corporators in corporations formed under the laws of this State shall not be individually liable for the debts or liabilities of such corporation, unless by their articles of incorporation they may so elect.

SEC. 5. This State shall not donate or loan money, or its credit, subscribe to, or be interested in the stock of any company, association, or corporation, except corporations formed for educational, charitable, irrigation, or railroad purposes within this State.

ARTICLE IX.—FINANCE AND STATE DEBT.

SECTION 1. The fiscal year shall commence January first.

SEC. 2. The legislature shall provide by law for an annual tax, sufficient to defray the estimated expenses of the State for each fiscal year, and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year or two years.

SEC. 3. The State shall never assume or guarantee the debts of any county, town, city, or other corporation whatever, unless such debts may have been created to repel invasion, suppress insurrection, or to provide for the public defense.

ARTICLE X.—TAXATION.

SECTION 1. The legislature shall, by law, provide for uniform and equal rates of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal, and possessory, except mines and mining claims, the proceeds of which shall be taxed, as regulated by law; and, also, excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.

ARTICLE XI.—EDUCATION.

SECTION 1. The legislature shall protect and encourage education.

SEC. 2. All legislation in regard to education shall be impartial, guaranteeing to males and females, to citizens and foreigners, and to persons of all races, colors, and religions, equal rights and privileges.

ARTICLE XII.—MILITIA.

SECTION 1. The militia of the State shall be composed of all able-bodied male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be organized, armed, equipped, and trained as the legislature may provide by law.

SEC. 2. All commissioned officers of the militia (staff officers excepted) shall be elected by persons liable to military duty, in such manner as the legislature may provide, and shall be commissioned by the governor.

ARTICLE XIII.—PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, deaf, and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

SEC. 2. A State prison shall be established and maintained in such manner as may be prescribed by law, and provisions made be made by law for the establishment and maintenance of a house of refuge for juvenile offenders.

SEC. 3. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age or infirmity, or misfortunes, may have claim upon the sympathy and aid of society.

ARTICLE XIV.—BOUNDARY.

SECTION 1. The boundary of the State of Deseret shall be as follows: Commencing at point formed by the intersection of the thirty-second degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree of west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude

to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree west longitude to the place of beginning. And whenever Congress shall authorize the addition to the Territory of Utah or State of Deseret of any portion of the territory on the northerly or southerly boundaries of the foregoing defined limits, the same shall thereupon be embraced within and become a part of this State.

ARTICLE XV.—MISCELLANEOUS PROVISIONS.

SECTION 1. The seat of government shall be at Salt Lake City, or such place as the legislature may determine.

SEC. 2. No person shall be eligible to any office who is not a qualified elector.

SEC. 3. The general election shall be held on the first Monday in August of each year, unless otherwise provided for by law.

SEC. 4. The legislature shall provide for the speedy publication of all laws of a general nature.

SEC. 5. The compensation of all State officers shall be as prescribed by law: *Provided*, No change of salary or compensation shall apply to any officer during the term for which he may have been elected.

SEC. 6. All executive officers of the State shall keep their respective offices at the seat of government.

SEC. 7. A plurality of votes given at any election by the people shall constitute a choice, where not otherwise provided by this constitution.

SEC. 8. No person holding any office of honor or profit under the Government of the United States shall hold office under the government of this State, except postmasters, whose annual compensation does not exceed five hundred dollars, and except as otherwise provided in this constitution.

ARTICLE XVI.—AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution, if agreed to by a majority of all the members elected to each of the two houses of the legislature, shall be entered on their respective journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the legislature next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become a part of the voting constitution.

SEC. 2. If at any time the legislature, by a vote of two-thirds of the members elected to each house, shall determine that it is necessary to cause a revision of this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for

calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of the two branches of the legislature.

ARTICLE XVII.—SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a State government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies-corporate, including counties, towns, and cities, shall continue as if no change had taken place; and all process which may issue under the authority of the Territory of Utah previous to its admission into the Union shall be as valid as if issued in the name of the State of Deseret.

SEC. 2. All laws of the Territory of Utah in force at the time of the admission of this State not repugnant to this constitution shall remain in force until they expire by their own limitations, or be altered or repealed by the legislature.

SEC. 3. All fines, penalties, and forfeitures accruing to the Territory of Utah, or to the people of the United States in the Territory of Utah, shall inure to the State of Deseret.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a territorial to a State government, shall remain valid, and shall pass to, and may be prosecuted in, the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court in his or their official capacity, or to the people of the United States in the Territory of Utah, shall pass to the governor or other officer or court, and his or their successors in office, for the uses therein respectively expressed, and may be sued on, and recovery had accordingly; and all revenue, property, real, personal, or mixed; and all judgments, bonds, specialties, choses in action, claims, and debts, of whatsoever description; and all records and public archives of the Territory of Utah, shall issue and vest in the State of Deseret, and may be used for and recovered in the same manner and to the same extent, by the State of Deseret, as the same could have been by the Territory of Utah. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Utah before the change from a territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Deseret, with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this constitution had not been adopted. All actions at law, and suits in equity, and other legal proceedings which may be pending in any of the courts of the Territory of Utah at the time of the change from a territorial to a State government, may be continued and transferred to and determined by any court of the State which shall have jurisdiction of the subject-matter thereof; and all books, papers, and records relating to the same shall be transferred in like manner to such court.

SEC. 5. For the purpose of taking the vote of the electors of this Territory, for the ratification or rejection of this constitution, and for the election of members of the legislature, and a Representative in Congress, an election shall be held in the several counties of the Territory,

on the third Monday in March, anno Domini eighteen hundred and seventy-two, and the election shall be conducted and the returns thereof made as nearly as practiable in conformity with the existing laws of the Territory in relation to the holding of the general election, except that in voting for members of the House of Representatives, the electors may cast their ballots in accordance with section twenty-five of article four of the constitution.

SEC. 6. Each elector shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written or printed, "Constitution, yes," or "Constitution, no," or such words as will distinctly convey the intention of the voter.

SEC. 7. The county clerks of their respective counties shall issue to the members of the State legislature certificates of their election, and said clerks shall forthwith make duplicate returns of the votes cast for and against the constitution, and the votes cast for Representative in Congress, and transmit the same by the most safe and expeditious conveyance to R. L. Campbell, the secretary of this convention, inclosed in an envelope, marked, "Election returns."

SEC. 8. Upon receipt of said returns, or within fourteen days after the election, if the returns be not sooner received, it shall be the duty of a board of canvassers, to consist of the president and secretary of this convention, and the probate judge of Salt Lake County, or any two of the persons herein named, to canvass the returns of said election in presence of all who may choose to attend, and immediately publish an abstract of the same in one or more of the newspapers of the Territory of Utah, and forward a copy of said abstract, duly certified by them, to the President of the United States, President of the Senate, Speaker of the House of Representatives, and the Delegate in Congress from Utah Territory, and said board shall, after the adoption of this constitution and canvass of said votes, issue a certificate of election to the person receiving thereat the highest number of votes for Representative in Congress.

SEC. 9. Until otherwise provided by law, the apportionment of senators and representatives in the different counties shall be as follows: Salt Lake, Tooele, and Summit Counties, four senators; Salt Lake County, six representatives; Tooele County, one representative; Summit County, one representative; Davis and Morgan Counties, one senator and two representatives; Box Elder and Weber Counties, one senator; Box Elder County, one representative; Weber County, two representatives; Cash and Rich Counties, one senator and two representatives; Utah and Wasatch Counties, two senators; Utah County, three representatives; Wasatch County, one representative; Juab and Millard Counties, one senator; Juab County, one representative; Millard County, one representative; Beaver and Iron Counties, one senator; Beaver County, one representative; Iron County, one representative; Kane and Washington Counties, one senator and one representative; San Pete and Sevier Counties, one senator and two representatives.

SEC. 10. If this constitution be ratified by the people, the president of this convention, or in case of his inability, the secretary of this convention, shall convene the legislature at the City Hall in Salt Lake City, on the first Thursday of April, eighteen hundred and seventy-two, for the purpose of electing United States Senators.

SEC. 11. A copy of this constitution, certified to be correct by the president and secretary of this convention, shall be published by them in one or more of the newspapers of this Territory as soon as practicable after the final adjournment of this convention. Such president and secretary shall forward a copy of this constitution, duly certified, to the President

of the United States, President of the Senate, Speaker of the House of Representatives, and the Delegate in Congress from this Territory, and shall deliver or forward a copy, certified as aforesaid, to each of the delegates elected by this convention, in accordance with section twenty-four of this article.

SEC. 12. For the purpose of taking the vote of the electors of this Territory, for the acceptance or rejection of such terms, if any, as may be prescribed by Congress as a condition of the admission of said State into the Union, and for the election of all State officers and judges of the circuit courts, an election shall be held in the several counties of the Territory on the third Monday of the month succeeding that in which such act of Congress aforesaid, prescribing such terms, shall have become a law; and the election shall be conducted and the returns thereof made, as nearly as practicable, in conformity with the existing laws of the Territory in relation to the holding of the general election.

SEC. 13. Each elector shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written or printed, "Constitution as amended, yes," or "Constitution as amended, no," or such words as will distinctly convey the intention of the voter.

SEC. 14. The county clerks of their respective counties shall forthwith make duplicate returns of the votes cast for and against the constitution as amended, and the votes cast for all State officers and circuit judges, and transmit the same, by the most safe and expeditious conveyance, to R. L. Campbell, the secretary of this convention, inclosed in an envelope, marked "Election returns."

SEC. 15. Upon receipt of said returns, or within thirty days after the election, if the returns be not sooner received, it shall be the duty of a board of canvassers, to consist of the president and secretary of this convention, the president of the State senate, the speaker of the house of representatives, and the probate judge of Salt Lake County, or any three of the persons herein named, to canvass the returns of said election, in presence of all who may choose to attend, and immediately publish an abstract of the same in one or more of the newspapers of the Territory of Utah; and said board shall, if said constitution as amended has received a majority vote of the electors voting upon the question of the acceptance or rejection of the same, thereupon make public announcement of the fact, and transmit a certificate thereof, by the most safe and expeditious conveyance, to the President of the United States, President of the Senate, and Speaker of the House of Representatives, at Washington, District of Columbia, and also issue certificates of election to such persons as were elected at said election; and thenceforth this constitution shall be ordained and established as the constitution of the State of Deseret.

SEC. 16. The term of State officers, except judicial, elected at the first election, shall continue until the Tuesday after the first Monday of January, anno Domini eighteen hundred and seventy-five, and until the election and qualification of their successors.

SEC. 17. The State senators to be elected at the first election under this constitution shall draw lots, so that the term of one-half of the number, as nearly as may be, shall expire on the day succeeding the general election in anno Domini eighteen hundred and seventy-four, and the term of the other half shall expire on the day succeeding the general election in anno Domini eighteen hundred and seventy-six: *Provided*, That in drawing lots for all senatorial terms, the senatorial representation shall be allotted so that, in the counties having two or more senators, the terms thereof shall be divided, as equally as may be, between the long and short terms.

SEC. 18. The term of members of the house of representatives elected at the first election shall expire on the day succeeding the general election in anno Domini eighteen hundred and seventy-four.

SEC. 19. The first regular session of the legislature shall commence on the third Monday of the month succeeding that in which said State shall be, by act of Congress, or by proclamation of the President of the United States, made in pursuance of an act of Congress, admitted into the Union.

SEC. 20. The State officers and circuit judges elected at the first election shall be sworn in and assume the duties of their respective offices on the third Monday of the month succeeding that in which said State shall, by act of Congress, or by proclamation of the President of the United States, made in pursuance of an act of Congress, be admitted into the Union.

SEC. 21. The governor, secretary, district judges, and other officers of the Territory of Utah may continue to discharge the duties of their respective offices, after the admission of this State into the Union, and until the time designated for the qualification of the officers to be elected under the State government: *Provided*, That the said officers shall be subject to the restrictions and conditions provided in this constitution, and none of them shall receive, to his own use, any fees or perquisites for the performance of any duty connected with his office.

SEC. 22. All county, precinct, city, and district officers under the laws of the Territory of Utah, at the time this constitution shall take effect, and whose offices are not inconsistent with the provisions of this constitution, shall continue in office until their successors are elected and qualified. The time of such election and qualification shall be as prescribed by law.

SEC. 23. After the admission of this State into the Union, and until the legislature shall otherwise provide, the several judges shall hold courts in their respective circuits at such times and places as they may respectively appoint; and until provision shall be made by law for holding the terms of the supreme court, the governor shall fix the time and place of holding such court.

SEC. 24. George Q. Cannon, Thomas Fitch, and Frank Fuller are hereby elected delegates from this convention to proceed to Washington, District of Columbia, and, with the Delegate in Congress from Utah Territory, the Hon. W. H. Hooper, are requested to present this constitution to the President of the United States, the Senate of the United States, and the United States House of Representatives, and urge the passage of an act of Congress admitting the State of Deseret into the Union.

Done in convention at Salt Lake City the second day of March, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-sixth, and signed by the delegates.

E. M. BARNUM,
President of the Convention and
Delegate from Salt Lake County.

ROBT. L. CAMPBELL,
Secretary.

JOHN R. MURDOCK, Beaver County.
DANIEL TYLER, Beaver County.
M. W. DALTON, Box Elder County.
CHESTER LOVELAND, Box Elder Co.
LORENZO SNOW, Box Elder County.
JONATHAN C. WRIGHT, Box Elder Co.
WILLIAM HYDE, Cache County.
LORENZO H. HATCH, Cache County.
MILTON D. HAMMOND, Cache County.
OLE N. LE GENQUIST, Cache County.

WM. B. PRESTON, Cache County.
WILLIAM H. MANGHAM, Cache County.
M. W. MERRILL, Cache County.
W. F. TITTLEWOOD, Cache County.
MOSES THATCHER, Cache County.
LOT SMITH, Davis County.
THOMAS F. ROMETZ, Davis County.
NATHAN T. PORTER, Davis County.
JOHN TELFORD, Davis County.
ANSON CALL, Davis County.
THOMAS S. SMITH, Davis County.
JOHN R. BARNES, Davis County.
EDWARD DALTON, Iron County.
SILAS S. SMITH, Iron County.
JESSE N. SMITH, Iron County.
SETH M. BLAIR, Iron County.
GEORGE KENDALL, Juab County.
JOHN HAGUE, Juab County.
APPLETON M. HARMON, Kane County.
JOHN NEBEKER, Kane County.
THOMAS CALLISTER, Millard County.
PLATTE D. LYMAN, Millard County.
CULBERT KING, Millard County.
DANIEL THOMPSON, Millard County.
JESSE HAVEN, Morgan County.
WM. MORRISON, Pi-Ute and Sevier Co.
PETER RASMUSSEN, Pi-Ute and Sevier Counties.
CHARLES R. RICH, Rich County.
T. A. MADSEN, San Pete County.
GEORGE PEACOCK, San Pete County.
W. S. SNOW, San Pete County.
GEORGE TAYLOR, San Pete County.
ABNER LOWRY, San Pete County.
DAVID CANALAND, San Pete County.
HENRY W. SANDERSON, San Pete Co.
REES R. LEWELLYN, San Pete County.
FRANK FULLER, Salt Lake County.
ALBERT CARRINGTON, Salt Lake Co.
JOHN T. CAINE, Salt Lake County.
REUBEN MILLER, Salt Lake County.
HADLEY D. JOHNSON, Salt Lake County.
THOMAS FITCH, Salt Lake County.
A. P. ROCKWOOD, Salt Lake County.
AURELIUS MINER, Salt Lake County.
ENOS D. HOGE, Salt Lake County.
GEO. Q. CANNON, Salt Lake County.
WILLIAM JENNINGS, Salt Lake County.
THOMAS P. AKERS, Salt Lake County.
ORSON PRATT, SR., Salt Lake County.
ZERUBBABEL SNOW, Salt Lake County.
D. E. BUEL, Salt Lake County.
JOHN SHARP, Salt Lake County.
WM. W. CLUFF, Summit County.
S. F. ATWOOD, Summit County.
GEORGE G. SNYDER, Summit County.
GEORGE BURRIDGE, Tooele County.
RICHARD WARBURTON, Tooele County.
EDWARD HUNTER, Tooele County.
GEORGE W. BRYAN, Tooele County.
JOHN ROWBESEY, Tooele County.
JOHN BROWN, Utah County.
ALBERT K. THURBER, Utah County.
W. B. PARR, Utah County.
A. O. SMOOT, Utah County.
JOHN B. MILNER, Utah County.
WM. BRINGHURST, Utah County.
DAVID EVANS, Utah County.
WILLIAM PRICE, Utah County.
ORRAWELL SIMONS, Utah County.
H. S. ALEXANDER, Wasatch County.
ABRAM HATCH, Wasatch County.
NYMPHAS C. MURDOCK, Wasatch Co.
WM. SNOW, Washington County.
JOS. W. YOUNG, Washington County.
SOLON FOSTER, Washington County.
ISRAEL IVINS, Washington County.
CHARLES W. PENROSE, Weber County.
GILBERT BELNAP, Weber County.
F. D. RICHARDS, Weber County.
LORIN FARR, Weber County.
F. A. HAMMOND, Weber County.
S. S. ERB, Weber County.
L. J. HERRICK, Weber County.
HENRY EUDEY, Weber County.
LYMAN W. PORTER, Morgan County.

[Telegram.]

SALT LAKE, UTAH, *March* 28, 1872.

Official vote from nineteen counties for constitution twenty-five thousand one hundred and sixty, against three hundred and sixty-five; Pi-Ute County unreported.

E. M. BARNUM,
ROBERT L. CAMPBELL,
ELIAS SMITH,
Board of Canvassers.

W. H. HOOPER,
House of Representatives.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 166.

SURVEY OF LANDS IN THE INDIAN TERRITORY.

[To accompany bill H. R. 1192.]

PROTEST

OF

THE INDIAN DELEGATES

TO THE

Survey of their lands in the Indian Territory, as proposed in the Indian appropriation bill.

APRIL 4, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States:

The undersigned would most respectfully ask leave to call the attention of your honorable bodies to the fact that they have noticed in the Globe of the 2d instant, containing the proceedings of Congress of the 1st instant, that an amendment was offered to the Indian appropriation bill (H. R. 1192) pending before the Senate, by the chairman of the Senate Indian Committee, providing "For the surveys of the exterior boundaries of Indian reservations, and subdividing portions of the same, $300,000." This amendment, as explained, is for the purpose of carrying out the recommendations of the honorable Secretary of the Interior, embracing "a detailed statement of all the surveys of Indian reservations that yet remain to be executed, accompanying report to the Secretary, February 17, 1872," and proposes to survey and subdivide, with other Indian lands, all the lands owned and occupied by the Indian nations or tribes in the Indian Territory, without their consent. To such survey and subdivision of the lands, reserved to said Indian tribes or nations, we do most respectfully but solemnly and firmly protest, until the said Indians may consent to or request the same, for the following reasons: 1st. That such proceedings would be in violation of the rights of said nations or tribes, and the public faith of the United States, as pledged by treaty stipulations to said Indians.

Article 11 of the treaty of 1866, between the United States and the Choctaws and Chickasaws, provides, "Whereas the land occupied by

the Choctaw and Chickasaw nations, and described in the treaty between the United States and said nations, of June 22, 1855, is now held by the members of said nations in common, under the provisions of said treaty; and whereas it is believed that the holding of said land in severalty will promote the general civilization of said nations, and tend to advance their permanent welfare, and the best interests of their individual members, it is hereby agreed that, should the Choctaw and Chickasaw people, through their respective legislative councils, agree to the survey and dividing their land on the system of the United States, the land aforesaid east of the ninety-eighth degree of west longitude shall be, in view of the arrangements hereinafter mentioned, surveyed and laid off in ranges, townships, sections, and parts of sections." The 47th article of said treaty contains substantially the same provisions, with the further provision that no such survey of the lands of the Choctaws and Chickasaws can be made, without first obtaining the "assent of the President of the United States," (U. S. Stat. at Large, vol. 14.) The Choctaws and Chickasaws have never consented or applied for a survey and subdivision of their lands, nor has the President of the United States ever given his assent to such survey and subdivision. Also, the 20th article of the Cherokee treaty of 1866 (U. S. Stat. at Large, vol. 14) provides as follows: "Whenever the Cherokee national council shall request it, the Secretary of the Interior shall cause the country reserved for the Cherokees to be surveyed and allotted among them at the expense of the United States." The Cherokee national council has never requested the survey and allotment of the lands of the Cherokees; but, on the other hand, the Cherokees have always protested against such a course.

2d. The treaties of 1866, between the United States and the Creeks and Seminoles, to which the honorable Secretary of the Interior alludes (U. S. Stat. at Large, vol. 14) in his recommendation, make no provision whatever for the survey and subdivison of the lands of the Creeks and Seminoles. On the contrary, those treaties, among other things, provide that Congress and the President of the United States may legislate for the protection of the persons and property of the Indian nations or tribes of the Indian Territory, with the express provision, however, that such legislation shall not in any manner "interfere with or annul their present tribal organizations, rights, laws, privileges, and customs." Also, the seventh article of the Choctaw and Chickasaw treaty of 1866 has the same provision, (U. S. Statutes at Large, vol. 14.) These treaty provisions are clearly for the protection of the Indians. Under them all the Indians in the Indian Territory may hold or not, as they choose, their lands in common or in severalty. Under their laws and customs, as they now stand, they all hold their lands in common; and by the terms of the treaties referred to Congress has no right to annul or change these laws and customs without the consent of the Indians themselves.

Furthermore, we respectfully submit that the idea of sacrificing the public faith of the United States with its helpless wards, (the Indians,) who stand to that Government as a little orphan child to its legally and morally bound guardian, would reflect but little credit upon the good name and power of the Government, or upon the present era of civilization and Christianity, especially as such a sacrifice can find no warrant in justice or necessity. The present communal system of the Indians in the Indian Territory, with regard to their lands, works harmoniously, and is well understood by the Indians, and is peculiarly suited to their condition and genius. Under it, the Indians have no paupers or

vagrants, and every one can have a home, and the system is so well organized and protected by treaties and the laws of Congress, as well as the local laws of the Indians, as to prevent any individual Indians from depriving the others of a home by fraud or corruption. This communal system, as compared to the system of holding lands in severalty among the Indians, has, thus far, in the experience of the United States, proved a decided success. For instance, while the Indians in the Indian Territory, holding their lands in common, have steadily increased in numbers and advanced in civilization, the Indians outside of said Territory, who have had their lands allotted in severalty, have rapidly deteriorated and passed out of existence, so that what is left of them, such as the Delawares, Shawnees, Munsees, and many other tribes, have become homeless, and have sought refuge in the Indian Territory, while others in the same condition have been provided for in said Territory, by the treaties of the United States with the Cherokees, Creeks, Seminoles, Choctaws, and Chickasaws, in 1866, (U. S. Stat. at Large, vol. 14.) These treaties provide for what is commonly known as the "Indian policy," which has been so much improved and faithfully observed by President Grant, and which was inaugurated by Congress, by the "Indian intercourse act" of 1802, and the "Indian bill" of 1830, and has been fostered by every administration of the Government since. That policy has for its object the concentration of the Indians in the Indian Territory, as an "Ok-la-ho-ma," or "home for the red man," in order to civilize him and fit him for a higher and better sphere of action. Its success is amply attested by the annual message of the President of the United States; by the reports of the Secretary of the Interior and the Commissioner of Indian Affairs; and by the reports of the President's "Indian peace commissioners." A survey and subdivision of the lands of the Indians in the Indian Territory at present would break up this policy of the Government, by precluding the settlement of any more Indians in that country, and would leave outside of that Territory, and within the States and Territories of the United States, according to the report of the Secretary of the Interior to the President of October 31, 1871, about 188,895 Indians unprovided for, and who, the Secretary in said report recommends, should be removed from their present locations, and settled in that Territory. In relation to this Indian policy of concentrating the Indians, by the Government, in the Indian Territory, the Hon. Secretary says, in his report: "This gathering together of all the out-lying tribes into a comparatively small Territory is the problem now before us. The proper solution of it must, in a great measure, decide the fate of that race." * * * "With judicious management, and a careful observance of treaty stipulations, I doubt not that the plan of gathering all the tribes into a smaller area can be successfully accomplished." We therefore repeat that a survey and subdivision of the lands of the Indians in the Indian Territory, before the requisite complement of other Indians now outside of that country can be settled in it, would be *premature*, and violative of the present "Indian policy," and all the acts of Congress on the subject, as well as the treaties between the United States and the Indians, and would also encourage the hordes of land-speculators and squatters who infest the western borders to lay violent hands on the lands of the Indians, and crush them out of the Indian Territory, and thus destroy the last hope of the Indians in North America. Moreover, the proposed survey will confessedly involve an unnecessary expense on the United States of seven or eight hundred thousand dollars. We trust that Congress will make no provisions for the proposed

survey and subdivision of the said Indian lands, until the Indians themselves shall have asked for such action.

We have the honor to be, very respectfully, your obedient servants,

WILL. P. ROSS,
WM. P. ADAIR,
C. N. VANN,
Cherokee Delegation.
PLEASANT PORTER,
D. N. McINTOSH,
JNO. R. MOORE,
SAM'L CHECOTE, *Principal Chief*,
Creek Delegation.

WASHINGTON, D. C., *April* 4, 1872.

○

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 167.

COST AND SALES OF PUBLIC LANDS.

LETTER

FROM THE

COMMISSIONER OF THE GENERAL LAND-OFFICE,

ADDRESSED TO

HON. JAMES A. GARFIELD, CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS,

GIVING

Information as to the cost and sales of public lands.

APRIL 4, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
Washington, D. C., March 15, 1872.

SIR: I transmit herewith a tabular statement showing the number of acres surveyed and remaining unsurveyed in the land States and Territories of the United States on the 30th day of June, 1871.

The statement of receipts and expenditures for the fiscal year ending June 30, 1871, and of sales for the first six months of the present fiscal year, is being prepared, and will be communicated to you at the earliest possible moment.

In regard to the estimates of appropriations which this office submitted to Congress for the fiscal year ending June 30, 1873, for the surveying service, I have the honor to say that, on a comparison of them with those submitted by the Secretary of the Treasury, (Ex. Doc. No. 5, Forty-second Congress, 2d session, H. R.,) it is found that no change has been made in the same in any particular.

In this connection I have to observe that in Minnesota, Dakota, Montana, Nebraska, Kansas, Colorado, Idaho, California, Oregon, Washington, Nevada, and Wyoming, enhanced estimates of appropriations for the survey of public land were submitted, for the reason that extensive railroad grants have been conceded by Congress. Some of the roads have been in operation for several years, and the lands to which they are entitled cannot be certified to them because they have not been surveyed.

Also, in view of unprecedented emigration along the lines of the rail-

roads, and within the limits of the grants, numerous actual settlers require the subdivisional surveys to enable them to know, before costly improvements are erected, whether they are on the even-numbered sections.

I have the honor to be, very respectfully, your obedient servant,

WILLIS DRUMMOND,
Commissioner.

Hon. JAMES A. GARFIELD,
Chairman Committee on Appropriations,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
March 15, 1872.

Statement showing the number of acres of public lands surveyed and unsurveyed up to June 30, 1871, *in the following States and Territories.*

States and Territories.	Surveyed.	Unsurveyed.
Wisconsin	34,511,360	.....
Iowa	35,228,800	.....
Minnesota	29,327,305	24,132,535
Kansas	36,173,074	15,870,446
Nebraska	21,571,130	27,065,670
California	33,900,632	87,047,208
Nevada	4,876,447	66,861,294
Oregon	10,140,281	50,835,079
Washington	5,773,719	39,022,441
Colorado	8,902,899	57,977,101
Utah	3,762,946	50,302,129
Arizona	1,951,343	70,954,961
New Mexico	4,402,273	73,166,367
Dakota	6,577,427	90,018,413
Idaho	1,524,055	53,704,105
Montana	2,459,168	89,557,472
Wyoming	770,167	61,874,953
Missouri	41,824,000	.....
Alabama	32,462,080	.....
Mississippi	30,179,840	.....
Louisiana	23,465,949	*2,995,491
Arkansas	33,406,720	.....
Florida	27,531,587	†10,399,933
Ohio	25,576,960	.....
Indiana	21,637,760	.....
Michigan	36,128,640	.....
Illinois	35,462,400	.....
Indian Territory	1,350,107	42,804,133
Alaska	.....	369,529,600
Total	550,879,069	1,284,119,331

* It will be seen that there are not quite 3,000,000 acres remaining unsurveyed in Louisiana.

† In Florida there are over 10,000,000 acres unsurveyed, but perhaps three-fourths of that amount consists of what is known as *everglades*, and cannot be surveyed; therefore there are, in fact, about 2,500,000 acres yet to be surveyed. I think it would be good policy for the Government to make liberal appropriations for these States, so as to close up the surveys and the expense of continuing surveyors' offices there year after year under limited appropriations; but increased appropriations for field-work without a corresponding increase of the clerical force to keep up and complete the office-work will not enable us to close up the business of these offices within a reasonable time.

LOUISIANA.

It is estimated that, before the surveying service in Louisiana can be completed, the original archives turned over to the State authorities, as the law requires, and the office of the surveyor general at New Orleans closed, it will require, say, forty years of one clerk's services to perform the duties devolving on that office.

If only $2,500 per annum is appropriated for compensation of the clerks, (two in number,) it will be necessary to keep the office open for twenty years, in order to complete the current work and the arrears thereof, caused by former inadequate clerical force and the destruction of surveying evidences during the rebellion. With the $2,500 yearly appropriation, the winding up of the surveys in Louisiana would cost as follows, viz:

During twenty years surveyor general's salary, at $2,000 per annum	$40,000
During twenty years salaries of two clerks, $2,500 per annum	50,000
During twenty years incidental expenses of the office, at $2,000	40,000
Total	130,000

Per contra.

Should the allowance of $6,300 per annum be made for the pay of five clerks, as estimated by this office, the service may be completed in eight years, at the following estimated cost, to wit:

Eight years surveyor general's salary, at $2,000 per annum	$16,000
Eight years compensation of five clerks, $6,300 per annum	50,400
Eight years incidental expenses of surveyor general's office, at $2,000	16,000
Total	82,400

Showing a difference in the cost of the service in favor of the appropriation of $6,300 per annum for clerk-hire, instead of $2,500, of $47,600.

FLORIDA.

It is estimated that, before the surveying service in Florida is completed, the original surveying archives in the surveyor general's office turned over to the State authorities, as required by law, it will require five years time of four clerks, at the rate of—

Compensation of $5,200 per annum		$20,800
Also $2,000 per annum for surveyor general's, for five years		10,000
And $1,500 per annum for incidental expenses to maintain the office of the surveyor general for five years		7,500
Total		38,300
Should, however, Congress appropriate only $2,500 per annum—the sum not sufficient to pay two clerks—the winding up of the surveying service and closing the office of the surveyor general at Tallahassee would require—		
Eight years of two clerks' salary, at $2,500 per annum	$20,000	
Eight years of surveyor general's salary, at $2,000 per annum	16,000	
Eight years incidental expenses of the office, at $1,500 per annum	12,000	
		48,000
Making a difference in favor of the appropriation of $5,200 per annum for clerk-hire, instead of $2,500, of		9,700

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
Washington, D. C., March 18, 1872.

SIR: I have the honor to transmit herewith statement marked A, exhibiting by States the gross receipts from all sources connected with the disposal of the public lands during the fiscal year ending 30th June, 1871, with the expenses incident thereto; also, statement marked B, exhibiting the area sold and otherwise disposed of, from July 1 to December 31, 1871, with the gross receipts during the same period.

I am, sir, very respectfully, your obedient servant,

WILLIS DRUMMOND,
Commissioner.

Hon. JAMES A. GARFIELD,
Chairman Committee on Appropriations,
House of Representatives.

A.—*Statement of gross receipts from the disposal of the public lands during the fiscal year ending June* 30, 1871, *with expenses incident thereto, including expenses of district land-offices, offices of surveyors general, and the General Land-Office.*

States and Territories.	Proceeds of cash sales.	Warrant fees.	Homesteads, §10.	Commissions.	College-scrip fees.	Fees under act of 1861.	Fees under act of 1864.	Pre-empt'n fees.	Aggregate.	Incidental expenses of district land-offices.	Office of surveyor general.
Ohio	$228 07	.....	$90 00	$41 51	.....	.....	.....	.....	$359 58	$1,204 98	.....
Indiana	872 54	.....	5 00	1 00	.....	.....	.....	.....	878 54	567 23	.....
Illinois	7,088 88	.....	.....	.....	.....	.....	.....	.....	7,088 88	1,713 89	.....
Missouri	49,612 09	$54 00	19,785 00	9,935 67	$52 00	$82 30	$180 00	$600 00	80,302 06	5,239 95	.....
Alabama	1,168 34	4 00	10,780 00	4,123 00	.....	266 50	.....	.....	16,341 84	3,774 06	.....
Mississippi	95 24	.....	5,570 00	2,001 83	.....	.....	.....	.....	7,667 07	1,337 82	.....
Louisiana	2,328 50	1 00	8,900 00	3,506 73	.....	.....	.....	.....	14,736 23	1,897 46	$5,500 00
Michigan	182,540 94	2,360 00	15,420 00	8,962 84	194 00	.....	3,009 49	94 00	212,581 27	8,783 79	.....
Arkansas	4,449 09	.....	29,622 00	11,264 39	.....	.....	290 00	.....	45,625 48	4,574 09	.....
Florida	241 25	6 00	1,790 00	706 00	.....	.....	.....	.....	2,743 25	382 08	.....
Iowa	111,047 45	538 00	18,120 00	9,648 16	512 00	.....	4,710 00	1,700 00	146,275 61	6,942 39	.....
Montana	10,718 79	.....	3,040 00	2,826 00	360 00	.....	.....	2,160 00	19,050 79	1,547 81	37,900 00
Arizona	200 00	.....	.....	.....	.....	.....	.....	384 00	584 00	1,004 00	15,900 00
Utah	28,999 12	49 00	2,755 00	1,614 96	460 00	.....	.....	1,383 00	35,261 08	1,397 17	26,700 00
Wisconsin	276,098 84	1,989 00	10,078 79	5,332 91	44 00	.....	2,622 00	1,816 00	297,981 54	11,526 63	.....
California	367,512 79	435 00	11,265 00	8,181 60	4,028 00	.....	230 50	16,239 00	407,891 89	20,452 58	60,600 00
Nevada	6,463 73	8 00	550 00	336 00	128 00	.....	192 00	981 00	8,658 73	3,152 13	49,400 00
Minnesota	223,194 34	2,489 00	37,635 00	21,676 41	1,561 02	.....	5,732 51	10,020 00	302,308 28	11,857 21	124,200 00
Oregon	107,586 91	108 00	6,160 00	4,816 65	372 00	.....	8,224 28	1,386 00	128,653 84	6,629 15	31,500 00
Kansas	248,211 68	1,255 00	87,500 00	41,309 72	1,775 00	.....	1,604 00	14,112 00	395,767 40	10,874 01	49,300 00
Washington Territory	193,296 69	185 00	5,480 00	3,961 03	484 00	.....	240 00	1,521 00	205,167 72	7,743 45	25,500 00
Nebraska	312,744 36	2,389 00	59,491 00	31,677 11	564 00	.....	86 00	6,214 00	413,165 47	11,889 38	53,300 00
New Mexico Territory	4,997 91	.....	1,445 00	849 78	.....	.....	.....	50 00	7,342 69	1,309 06	17,500 00
Dakota Territory	32,861 52	75 00	8,315 00	3,414 36	924 00	.....	.....	3,330 00	48,919 88	3,148 01	28,500 00
Colorado Territory	87,376 65	197 00	7,166 00	5,542 50	1,030 00	.....	.....	7,367 00	108,679 15	7,243 04	62,385 00
Idaho Territory	2,908 18	.....	1,280 00	765 00	.....	.....	.....	141 00	5,094 18	2,547 62	28,200 00
Wyoming Territory	.....	.....	80 00	66 00	.....	.....	.....	96 00	242 00	505 20	53,325 00
Totals	2,262,843 90	12,142 00	352,322 79	182,561 16	12,488 02	348 80	27,121 78	69,540 00	2,919,368 45	139,244 19	669,710 00

Total amount of receipts from the disposal of the public lands from July 1, 1870, to June 30, 1871, inclusive		$2,919,368 45
Deduct aggregate expenses of the district land-offices from July 1, 1870, to June 30, 1871, inclusive	$139,244 19	
Deduct aggregate expenses of the offices of surveyors general during said period, including cost of surveys, salaries of surveyors general and clerks, office-rent, &c	669,710 00	
Deduct aggregate expenses of the General Land-Office during the said period, including salaries of Commissioner, recorder, and clerks, and contingent expenses	224,380 00	
		1,033,334 19
Net proceeds from disposal of public lands		1,886,034 26

B.—*Statement of the area of public lands sold for cash embraced by military warrant locations, by homestead entries, by locations of agricultural college scrip, and certified to railroads and wagon-roads, and approved as swamp, to December* 31, 1871.

States and Territories.	Area sold for cash.		Homestead entries.		Military bounty-land warrant locations.		Agricultural college scrip locations.		Pre-emption filings.	Granted to railroads.		Granted for wagon-roads.	Approved as swamp.	Total.	
	Acres.	*Amount.*	*Acres.*	*Amount.*	*Acres.*	*Amount.*	*Acres.*	*Amount*	*Amount.*	*Acres.*	*Amount.*	*Acres.*	*Acres.*	*Acres.*	*Amount.*
Ohio	40.00	$500 00	200.00	$21 00										240.00	$521 00
Indiana	164.97	206 21							$2 00					164.97	208 21
Illinois				2 00										40,00	2 00
Missouri	9,857.58	17,303 77	91,034.01	11,579 43	1,240.00	$31 00	160.00	$4 00	455 60	4,729.44			624.95	107,645.98	29,373 80
Alabama	172.74	632 92	90,722.91	9,898 00					63 50		$3,507 50			90,895.65	14,101 92
Mississippi	307.29	69,540 53	7,532.01											69,540.53	7,839 30
Louisiana	295.32	2,745 55	86,618.31	8,623 29									2,730.83	89,744.46	11,368 84
Michigan	82,370.67	155,618 21	71,068.40	10,039 02	75,340.22	2,876 50			28 00	2,333.17				231,112.46	168,561 73
Arkansas	216.18	4,092 56	163,972.43	19,408 22							812 88		229,733.01	393,921.62	24,313 66
Florida	61.49	637 42	44,213.65	4,351 00	120.00	3 00								44,395.14	4,991 42
Iowa	8,278.32	33,028 03	125,867.01	20,024 25	1,120.00	28 00	7,661.59	192 00	1,486 00		13 80		120.00	143,046.92	54,772 08
Montana Territory	1,848.14	5,999 90	15,441.03	1,557 00			10,538.75	264 00	1,242 00					27,827.92	9,062 90
Arizona Territory	1,280.00	1,600 00	640.00	64 00					117 00					1,920.00	1,781 00
Utah Territory	10,812.01	15,070 13	9,462.81	1,068 92	160.00	4 00	5,120.00	128 00	902 00					25,554.82	17,173 05
Wisconsin	205,709.85	298,256 54	82,153.86	9,934 14	54,473.72	1,361 93	2,880.00	72 00	1,214 00		2,640 00			345,217.43	313,478 61
California	98,970.45	187,481 25	69,219.89	8,603 20	6,760.00	169 00	119,790.43	2,972 00	7,401 00	19,741.19	2,903 77		65,010.57	380,192.53	209,530 22
Nevada	1,351.98	2,543 09	3,758.54	388 50	320.00	8 00	2,560.00	64 00	279 00		420 00			7,990.52	3,702 59
Minnesota	24,538.12	58,556 30	203,724.19	26,943 49	9,937.71	248 84	30,139.63	759 14	3,642 00	350,930.45	6,790 82		8,008.09	627,278.19	96,940 59
Oregon	22,516.00	37,710 10	54,134.93	7,231 29	1,120.00	28 00	5,120.00	128 00	859 00		4,375 09	202,448.07		285,339.00	50,331 98
Kansas	27,777.17	75,102 81	634,911.54	66,640 68	7,270.50	184 00	31,580.30	789 22	12,222 00	92,019.42	1,151 25			793,558.93	156,089 96
Washington Territory	37,489.78	61,836 75	30,999.97	4,961 60	789.19	19 73	16,496.00	460 00	1,523 00					85,774.94	68,801 08
Nebraska	81,538.30	152,680 98	344,501.35	44,985 68	53,312.94	1,335 32	12,611.49	316 00	4,242 00					491,964.08	203,559 98
New Mexico Territory	8,287.12	10,358 91	617.58	63 16					30 00					8,904.70	10,452 07
Dakota Territory	1,974.43	9,124 99	58,998.99	5,331 76	2,237.85	56 00	28,589.50	716 00	1,101 00					91,800.77	16,329 75
Colorado Territory	13,851.19	29,214 47	24,855.14	3,235 00	5,415.93	136 00	20,950.40	524 00	1,800 00					65,072.66	34,909 47
Idaho Territory	1,527.00	2,219 29	4,650.31	486 50					174 00					6,177.31	2,879 79
Wyoming Territory			1,425.34	228 00			1,440.00	36 00	111 00					2,865.34	375 00
Grand total														4,418,186.87	1,511,452 00

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 168.

THE WORKINGMEN'S CO-OPERATIVE COLONIZATION NATIONAL BANK.

PETITION

OF

CITIZENS OF NEW YORK,

PRAYING FOR

The establishment of the Workingmen's Co-operative Colonization National Bank of America.

APRIL 3, 1872.—Referred to the Committee on Banking and Currency and ordered to be printed.

NEW YORK, *March* 18, 1872.

To the honorable the Senate and House of Representatives of the United States in Congress assembled, greeting:

We, the undersigned, respectfully petition your honorable body for the passage of the following bill:

AN ACT to incorporate the Workingmen's Co-operative Colonization National Bank of America.

Whereas a number of workingmen, citizens of the city, county, and State of New York, have associated themselves together for the purpose of forming a Workingmen's Co-operative Colonization National Bank of America, to favor exclusively the creation and working of co-operative associations of labor in colonies, for the improvement of the land in farming, mining, and manufacturing or other mechanical purposes, in the States and Territories of the United States; and whereas such corporation is calculated to be useful in enabling its members, and all those connected therewith, to accumulate and provide a certain fund, to claim, purchase, locate, and improve homesteads, as well as to secure to themselves and families permanent and remunerative employment in co-operative associations of labor, all of which shall be represented by the bank as hereinafter provided for: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named persons: Peter Daly, president of the Workingmen's Union, 44 Prince street; Patrick H. Spelman, mason, ex-president F. M. T. A. B., 282 East Twenty-first street; Francis R. Purcell, painter, president F. M. T A. B., 346 East Twenty-third street; Wm. P. Mitchell, printer, 100 Bowery;

Michael Goode, ex-president of the Plasterers' Union; Peter Papin, civil engineer, 293 Third avenue; Henry B. Mulhall, painter, ex-president State Trade Assembly, 315 East Twenty-fourth street; William Osborne, president Tailors' Co-operative Union, 201 East Fourteenth street; Dennis S. Griffin, corresponding secretary Workingmen's Union, 8 Jackson street; Bernard Rice, bricklayer, financial secretary Workingmen's Union, 244 West Twenty-sixth street; Joseph A. Taylor, Stair-builders' Union, treasurer *pro tempore* Workingmen's Union, 550 West Fifty-fourth street; Jacob Morstatt, president Tailors's Union, 112 Third avenue; John Ennis, Plasterers' Union, 1636 Third avenue; George Smith, Tinsmiths' Union, 409 Second avenue; John P. Mulloy, Lathers' Union, 252 East Fifty-second street; Thomas Hughes, plumber, Seventieth street, corner Second avenue; Michael Higgins, Plasterers' Union, president F. M. T. A. B., 321 East Twenty-first street; Richard K. Power, president Stone-cutters' Union, 555 West Forty-fifth street; Thomas J. Hagan, treasurer Stone-cutters' Union, 555 West Forty-fifth street; James Devine, treasurer Bricklayers' Union No. 2, 474 Seventh avenue; John Browne, Painters' Union, 236 East Thirty-second street; John P. Ryan, ex-secretary Coopers' Union No. 2, 20 State street; Richard H. Casey, Carpenters' Trade Union, vice-president Saint Colombia Literary Society, 573 Third avenue; John R. Feeney, Hatters' Union, 313 East Twenty-ninth street; John Quinn, member financial committee Stone-cutters' Union, 631 West Forty-seventh street; James Degnan, Typographical Union No. 6, 14 North William street; Michael McManus, Plasterers' Union, 234 East Twenty-second street; Thomas Walsh, Plasterers' Union, 234 East Twenty-second street; John McKeon, president F. M. T. A. B., 232 East Twenty-first street; John Metzer, ex-president Stair-builders and Joiners' Union, 119 West Thirty-second street; Manus J. McNulty, carpenter, president F. M. T. A. B., 41 West Fourth street; Edward Marrin, farmer, 412 East Nineteenth street; Patrick Marrin, farmer, 412 East Nineteenth street; Joseph Lafumee, farmer, 114 Nassau street; Timothy Sullivan, Plumbers' Union, 374 East Tenth street; Thomas Masterson, recording secretary lodge 119 K. O. C. S., shoe-cutter, 28 Norfolk street; Patrick Mangan, president First New York Co-operative Shoe Factory, 20 College Place; Peter Heckel, president First Manhattan Co-operative Shoe Factory, 86 Warren street; Thomas Phillips, president Co-operative Shoe Manufacturing Association; James Mackintosh, president Co-operative Weaver Factory; James Nelson, machinist, 572 Ninth avenue; Peter Coen, Blacksmiths' Union, 507 East Thirteenth street; James Delaney, Varnishers and Polishers' Union, 409 East Twenty-second street; John Hughes, sign-painter, 302 East Twentieth street; Patrick Lamb, carpenter, 551 East Eleventh street; Hugh Dalton, Printers' Union, 194 Hudson street; Edward P. McDermott, Plasterers' Union, 589 Second avenue; William Cashman, Tailors' Union, 509 East Twelfth street; Edward Craddock, Stair-builders' Union, 681 Ninth avenue; and Richard Osborne, farmer, 336 East Sixteenth street, and their present and future associates, their successors and assigns, are hereby constituted and declared to be a body corporate and politic, in deed and in law, under the name, style, and title of "The Workingmen's Co-operative Colonization National Bank of America," to be located in the city of New York as headquarters, with power to open branch-offices in the States and Territories of the United States, wherever the interests of co-operative associations of labor in colonies shall require, and by that name shall have perpetual succession, and may sue and be sued in any court of the United States, may have a common seal, and also may have the right to own and hold

real estate, and improve or dispose of the same in favor of co-operative associations of labor only.

SEC. 2. That the persons named in the first section of this act shall be the first directors of this corporation for one year; and all vacancies by death, resignation, or otherwise in the office of directors shall be filled by the board by ballot without unnecessary delay, and at least twenty-one votes shall be necessary for the election of any director. The directors shall hold a regular meeting at least once in each month to receive reports of their officers or committees on the affairs of the corporation, and to transact such business as may be necessary; and any director omitting to attend the regular meetings of the board two times in succession, unless by justified excuse, may thereupon be considered as having vacated his place, and a successor may be elected to fill the same.

SEC. 3. That there shall be elected annually after the first year a board of directors, who shall be chosen from the shareholders, bona-fide workingmen, a majority of whom shall be taken from the original incorporators so long as this majority shall exist.

SEC. 4. That the business of this corporation shall be managed by a board of fifty directors, who shall elect from their number a president, vice-president, secretary, treasurer, and general superintendent, and may appoint such other officers as they may see fit. Twenty-one of the directors, of whom the president or vice-president, and the general superintendent or secretary, shall be two, or such other number as may be designated by the by-laws, shall form a quorum for the transaction of business at any regular or adjourned meeting of the board of directors, and the affirmative vote of at least three-fourths of the members thereof shall be requisite in making any order for, or authorizing the investment of any moneys, or the sale or transfer of any property, stock, or securities belonging to the corporation, or the appointment of any officer receiving any compensation therefrom.

SEC. 5. That the board of directors of the corporation shall have power, from time to time, to make and establish such by-laws and regulations as they shall judge proper, with regard to the election of officers and their respective functions, and generally for the management of the affairs of the corporation: *Provided*, That such by-laws and regulations are not repugnant to this act or the Constitution or laws of the United States.

SEC. 6. That the general business and object of the corporation hereby created shall be to act as agent between capital and labor, in issuing, registering, and countersigning the certificates of stock, bonds, or evidences of debts of such co-operative associations of labor as shall be duly incorporated and represented by the bank; such certificates of stock, bonds, or evidences of debts, to bear mortgage security upon real estate properties, or such other collateral securities as shall be deemed ample and sufficient, on such terms as may be found equitable.

SEC. 7. That the said bank shall have no power to receive loans or deposits on its own account, but is hereby authorized to receive loans or deposits on account and in immediate exchange of certificates of stock, bonds, or other evidences of debts of the co-operative associations of labor represented by the bank; and the stock or bond-holders of such associations shall be entitled to all the securities and advantages accruing from the co-operation of their capital with labor, on the terms provided by the by-laws of such co-operative associations of labor represented by their certificates of stock or bonds.

SEC. 8. That no co-operative association of labor shall be represented

by the bank, unless they shall be duly incorporated by virtue of the laws of the State in which they reside, and until a thorough investigation be made into the security offered by such organization, and regularly passed on according to section three.

SEC. 9. That the capital stock of this corporation shall consist of one million dollars, divided into ten thousand shares of one hundred dollars each, with power to increase to ten million dollars, as business may require, such shares to be paid for as the by-laws may provide.

SEC. 10. That after full payment of the stock, the board of directors shall have power to declare and pay dividends out of the earnings of the bank, as the by-laws may provide, and provided that ten per centum thereof being devoted to educational purposes in arts and sciences among the members of the co-operative associations of labor connected with the bank.

SEC. 11. That the corporators, or a majority of them, shall have power to open books for subscription to the capital stock at such times and places as they may deem expedient; and when five thousand shares of said stock shall have been subscribed, and ten per centum thereon paid in, the business of the bank may commence.

SEC. 12. That the funds of the corporation are to be entirely invested in United States bonds or securities as paid in, such bonds or securities to remain as collateral security in the Treasury of the United States, for the redemption of the circulating medium or representative stock which shall be issued by the Government for the said bank.

SEC. 13. That all circulating medium or representative stock of the bank is to be exclusively invested in the appropriation and improvement of real estate, transferred to or loaned by open credit to co-operative associations of labor that shall be duly incorporated and represented by the bank.

SEC. 14. That each shareholder for each and every share of stock held in this corporation, provided he is a member of any co-operative association of labor represented by the bank, shall be entitled to receive a loan or open credit of one hundred dollars, but no more than two thousand dollars, whatever may be the number of shares held by a single individual.

SEC. 15. That the annual election for directors shall be held on the last Saturday in December of each year, unless changed by the by-laws.

SEC. 16. That the stockholders of the bank shall be entitled to one vote only, no matter what the number of shares held by a single individual may be; they shall vote in person only.

SEC. 17. That in order to prevent fraud, each shareholder may be compelled to make affidavit of the ownership of his share or shares; the president shall have the power to administer said affidavit.

SEC. 18. That the books of the corporation shall at all times during the hours of business be open for inspection and examination to such persons as Congress shall designate or appoint.

SEC. 19. That the right is reserved by the Congress of the United States to alter, revoke, or amend this charter, whenever, in their opinion, it may be injurious to the citizens of the United States, in such manner, however, that no injustice be done thereby.

By the committee on charter, on behalf of the incorporators named in the first section of this act.

W. P. MITCHELL.
WILLIAM OSBORNE.
PETER PAPIN.
PATRICK H. SPELMAN, *Chairman.*
H. B. MULHALL, *Secretary.*

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 169.

OLIVER MOSES AND OTHERS, OWNERS OF SHIP JOHN CARVER.

[To accompany bill H. R. 1221.]

MEMORIAL

OF

OLIVER MOSES AND OTHERS,

OWNERS OF

The ship John Carver.

APRIL 5, 1872.—Ordered to be printed and recommitted to the Committee of Claims.

Mr. FRYE, from the Committee of Claims, reported the following:

To the Senate and House of Representatives of the United States of America in Congress assembled:

The petition of Oliver Moses, Frank O. Moses, Galen C. Moses, Charles Owen, Robert P. Manson, citizens of Bath, Maine, and George W. Edge, a citizen of Richmond, Maine, respectfully showeth:

That they were the sole owners of the American ship John Carver; that said ship was commanded by George W. Edge, and that on the 2d day of July, 1861, George W. Edge, as master and agent, for the owners of said ship John Carver, of nine hundred and seventy-six tons burden, did charter said ship to the United States, for the purpose of carrying naval stores to the Department of the Gulf, viz, a full cargo of anthracite coal, to supply United States steamers at the mouth of the Mississippi River, and other points.

That said charter was made by James S. Chambers, Navy agent at Philadelphia, said Chambers acting under the authority of the Navy Department.

That the charter on the part of the master and owners was made in good faith and performed to the best of their ability, in strict accordance with the terms of the charter-party.

That the rate of freight to have been paid by the Government was only the market rate of freights at the port of Philadelphia on the day of the date of the charter.

At the time of said charter the Gulf States were in rebellion against the Government, but their ports had been blockaded.

The United States, at the date of the charter of said ship, being at peace with all foreign powers, with the Gulf ports closed, a feeling of

security pervaded the whole commercial interest of the country that the commerce of the United States was secure from any and all depredations from foreign or confederate cruisers.

That no insurance, other than marine risks, was placed upon American commerce until such time as it was known that privateers were upon the high seas.

Upon completion of loading said ship, Captain Edge, as a precaution, requested of the charterers that the ship be convoyed. This was refused. Then he requested that guns be placed on board, and this request was refused.

That on the 28th day of July, 1861, properly manned, staunch, tight, newly metaled, thoroughly fitted, and provisioned for six months, the ship proceeded to sea, with no insurance other than marine policies.

August 11, 1861, early in the morning, a brig hove in sight, and at 12 m., latitude 29° 51′, longitude 67° 50′, flying the French flag, fired a shot across the bows of the ship, and at once boarded her with a lieutenant, captain of marines, sailors, and a file of armed marines, who declared the ship John Carver a prize to the privateer Jeff Davis.

The officers and crew were ironed and transferred to the privateer. The ship was bored and set on fire by the privateers, and was a total loss.

That the Jeff Davis was the first known confederate cruiser, and the John Carver was the first capture made, upon the high seas.

That the capture of said ship was a warning to the whole commercial interest of the country, affording all an opportunity, if they chose to avail themselves, to protect themselves against the depredations of privateers by placing war policies upon their vessels.

That the fact of privateers being upon the ocean preying upon American commerce was established beyond a doubt by the capture of the John Carver, and that the Government in its subsequent charters guaranteed the owners against loss by capture.

That the destruction of the John Carver virtually gave protection to the whole commerce of the country and to the Government, but are themselves deprived of its benefits.

That the owners have never received any remuneration for their loss.

Your petitioners respectfully ask your honorable bodies to cause to be paid to them by the Treasurer of the United States $123,805, in full discharge of loss and damage sustained by them, as set forth in the foregoing memorial.

That said amount of claim for damages and loss sustained by us is made up as follows:

Ship, 976 tons, at $75 per ton	$73,200
Forty days' charter, at $75 per day	3,000
	76,200
Interest on same 10 years and 5 months	47,605
Total	123,805

Realizing that upon the close of a great civil war necessarily large demands must be made and met by the Treasury, in payment of war claims, which honor and dignity would demand to be paid promptly, and which would necessarily involve the payment from the Treasury of hundreds of millions of money, is the reason why the petitioners have not urged the payment of their demand at an earlier day.

Honor, justice, and equity alike demand that a great and powerful

nation like ours should not only protect its citizens in their rights of citizenship, but should most sacredly protect all property of its citizens intrusted to the service of the Government in the hour of peril for its maintenance, and indemnify for any damage or loss sustained by their property while in its service.

For evidence of ownership, reference is made to certified copy of register of said ship annexed.

For evidence of charter, reference is made to charter-party annexed.

For evidence of loss of said ship, reference is made to master's protest annexed.

For evidence of valuation, reference is made to accompanying letters of appraisal from commercial men and firms, who have had many years' experience in building, sailing, buying, and selling ships, and who are highly esteemed and respected by the commercial public as gentlemen of unquestioned integrity.

For charter per day, reference is made to charter-party annexed, where demurrage is specified.

Your petitioners have faith that Congress will grant them such indemnification as will be just and proper, without delay.

And your petitioners, as in duty bound, will ever pray.

OLIVER MOSES,
For owners of ship John Carver.

Register of the ship John Carver.

Permanent, No. 2.

[An act of the Congress of the United States.]

In pursuance of an act of Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," Oliver Moses, ($\frac{3}{16}$,) of Bath, State of Maine, having taken or subscribed the oath required by the said act, and having sworn that he, together with Charles Owen, ($\frac{3}{16}$,) Robert P. Manson, ($\frac{1}{16}$,) Frank O. Moses, ($\frac{1}{16}$,) Galen C. Moses, ($\frac{1}{16}$,) and George W. Edge, ($\frac{3}{16}$,) of said Bath, are the only owners of the ship or vessel called the John Carver, of Bath, whereof John C. Lowell is at present master, and a citizen of the United States, as he has sworn; and that the said ship or vessel was built at Bath, State of Maine, in the year 1860, as per master carpenter's certificate dated this day; and James W. Frye, a deputy surveyor of this port, having certified that the said ship or vessel has two decks and three masts, and that her length is 182 feet 9 inches; her breadth 33 feet 9½ inches; her depth ———; that she measures 976.43 tons; that she is a ship, has a square stern, no galleries, and a billet-head; and the said Oliver Moses having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said ship has been duly registered at the port of Bath.

Given under my hand and seal at the port of Bath this eighteenth day of February, in the year one thousand eight hundred and sixty.

[SEAL.] F. BIGGER, *Register.*
[SEAL.] JOSEPH BERRY, *Collector.*

DISTRICT AND PORT OF BATH,
OFFICE OF COLLECTOR OF CUSTOMS,
January 22, 1872.

I hereby certify that the within is a true copy of the register of the ship John Carver, of Bath, from the records of this office.

Witness my hand and seal of office.

[SEAL.] E. S. J. NEALLEY, *Collector.*

United States Navy Department.

This charter-party, made in Philadelphia the 2d day of July, in the year 1861, between George W. Edge, master and agent for owners of the ship John Carver, of the burden of 976 tons, or thereabouts, register measurement, now lying in the harbor of

security pervaded the whole commercial interest of the country that the commerce of the United States was secure from any and all depredations from foreign or confederate cruisers.

That no insurance, other than marine risks, was placed upon American commerce until such time as it was known that privateers were upon the high seas.

Upon completion of loading said ship, Captain Edge, as a precaution, requested of the charterers that the ship be convoyed. This was refused. Then he requested that guns be placed on board, and this request was refused.

That on the 28th day of July, 1861, properly manned, staunch, tight, newly metaled, thoroughly fitted, and provisioned for six months, the ship proceeded to sea, with no insurance other than marine policies.

August 11, 1861, early in the morning, a brig hove in sight, and at 12 m., latitude 29° 51′, longitude 67° 50′, flying the French flag, fired a shot across the bows of the ship, and at once boarded her with a lieutenant, captain of marines, sailors, and a file of armed marines, who declared the ship John Carver a prize to the privateer Jeff Davis.

The officers and crew were ironed and transferred to the privateer. The ship was bored and set on fire by the privateers, and was a total loss.

That the Jeff Davis was the first known confederate cruiser, and the John Carver was the first capture made, upon the high seas.

That the capture of said ship was a warning to the whole commercial interest of the country, affording all an opportunity, if they chose to avail themselves, to protect themselves against the depredations of privateers by placing war policies upon their vessels.

That the fact of privateers being upon the ocean preying upon American commerce was established beyond a doubt by the capture of the John Carver, and that the Government in its subsequent charters guaranteed the owners against loss by capture.

That the destruction of the John Carver virtually gave protection to the whole commerce of the country and to the Government, but are themselves deprived of its benefits.

That the owners have never received any remuneration for their loss.

Your petitioners respectfully ask your honorable bodies to cause to be paid to them by the Treasurer of the United States $123,805, in full discharge of loss and damage sustained by them, as set forth in the foregoing memorial.

That said amount of claim for damages and loss sustained by us is made up as follows:

Ship, 976 tons, at $75 per ton	$73,200
Forty days' charter, at $75 per day	3,000
	76,200
Interest on same 10 years and 5 months	47,605
Total	123,805

Realizing that upon the close of a great civil war necessarily large demands must be made and met by the Treasury, in payment of war claims, which honor and dignity would demand to be paid promptly, and which would necessarily involve the payment from the Treasury of hundreds of millions of money, is the reason why the petitioners have not urged the payment of their demand at an earlier day.

Honor, justice, and equity alike demand that a great and powerful

nation like ours should not only protect its citizens in their rights of citizenship, but should most sacredly protect all property of its citizens intrusted to the service of the Government in the hour of peril for its maintenance, and indemnify for any damage or loss sustained by their property while in its service.

For evidence of ownership, reference is made to certified copy of register of said ship annexed.

For evidence of charter, reference is made to charter-party annexed.

For evidence of loss of said ship, reference is made to master's protest annexed.

For evidence of valuation, reference is made to accompanying letters of appraisal from commercial men and firms, who have had many years' experience in building, sailing, buying, and selling ships, and who are highly esteemed and respected by the commercial public as gentlemen of unquestioned integrity.

For charter per day, reference is made to charter-party annexed, where demurrage is specified.

Your petitioners have faith that Congress will grant them such indemnification as will be just and proper, without delay.

And your petitioners, as in duty bound, will ever pray.

OLIVER MOSES,
For owners of ship John Carver.

Register of the ship John Carver.

Permanent, No. 2.

[An act of the Congress of the United States.]

In pursuance of an act of Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," Oliver Moses, ($\frac{9}{16}$,) of Bath, State of Maine, having taken or subscribed the oath required by the said act, and having sworn that he, together with Charles Owen, ($\frac{2}{16}$,) Robert P. Manson, ($\frac{1}{16}$,) Frank O. Moses, ($\frac{1}{16}$,) Galen C. Moses, ($\frac{1}{16}$,) and George W. Edge, ($\frac{2}{16}$,) of said Bath, are the only owners of the ship or vessel called the John Carver, of Bath, whereof John C. Lowell is at present master, and a citizen of the United States, as he has sworn; and that the said ship or vessel was built at Bath, State of Maine, in the year 1860, as per master carpenter's certificate dated this day; and James W. Frye, a deputy surveyor of this port, having certified that the said ship or vessel has two decks and three masts, and that her length is 182 feet 9 inches; her breadth 33 feet 9½ inches; her depth ———; that she measures 976.43 tons; that she is a ship, has a square stern, no galleries, and a billet-head; and the said Oliver Moses having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said ship has been duly registered at the port of Bath.

Given under my hand and seal at the port of Bath this eighteenth day of February, in the year one thousand eight hundred and sixty.

[SEAL.] F. BIGGER, *Register.*
[SEAL.] JOSEPH BERRY, *Collector.*

DISTRICT AND PORT OF BATH,
OFFICE OF COLLECTOR OF CUSTOMS,
January 22, 1872.

I hereby certify that the within is a true copy of the register of the ship John Carver, of Bath, from the records of this office.

Witness my hand and seal of office.

[SEAL.] E. S. J. NEALLEY, *Collector.*

United States Navy Department.

This charter-party, made in Philadelphia the 2d day of July, in the year 1861, between George W. Edge, master and agent for owners of the ship John Carver, of the burden of 976 tons, or thereabouts, register measurement, now lying in the harbor of

Philadelphia, of the first part, and James S. Chambers, navy agent at Philadelphia, acting under the authority of the Navy Department, for and in its behalf, of the second part, witnesseth: That the said party of the first part, in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the said party of the second part, do covenant and agree on the freighting and chartering of the said vessel to the said party of the second part, for a voyage from the port of Philadelphia, proceeding to the mouth of the Mississippi direct, to coal the United States steamers there; if any coal is left, to go off Mobile and coal the United States steamers there; if any still remains, to go off Fort Pickens and coal the United States steamers there; and the remainder of the cargo, if any remains, to be landed at Key West, Florida, on the terms following, viz:

The said party of the first part agrees the vessel shall be tight, stanch, strong, well fitted, tackled, and provided with every requisite, and with men and provisions necessary for such a voyage; that the whole of the said vessel (with the exception of the deck, cabin, the necessary room for the accommodation of the crew, and of the sails, cables, and provisions) shall be at the sole use and disposal of the said party of the second part during the voyage aforesaid; the said party of the first part further agrees to take and receive on board the said vessel during the aforesaid voyage all such lawful goods and merchandise as the said party of the second part or their agents may think proper to ship.

It is further understood and agreed, that no cargo whatever shall be received on board during the voyage, except with the consent in writing of the party of the second part; but if the Navy Department is subjected to any additional expense or cost therefor, the same to be deducted from the amount to be paid for freight.

And the said party of the second part, in consideration of the covenants and agreements to be kept and performed by the said party of the first part, covenants and agrees with the said party of the first part to charter and hire the said vessel, as aforesaid, on the terms following, viz:

The said party of the second part agrees to furnish said vessel with a full cargo of lawful merchandise, not exceeding what she can reasonably stow and carry, during the voyage aforesaid; say about seventeen hundred tons of anthracite steamer coal, or quantity expressed in the bills of lading presented by the inspector or agent of the Department.

The said party of the second part further agrees to pay the said party of the first part, or his agent, for the charter or freight of said vessel during the voyage aforesaid, less the amount of short delivery, in full of primage and all other charges and dues, at the rate of $7 per ton of 2,240 pounds, delivered as above required.

The said party of the second part further agrees that the freight shall be paid by the United States navy agent at Philadelphia within thirty days after the presentation of receipts of the right delivery of the cargo, from the senior commanding officers of the several stations before named.

It is further agreed between the parties hereto, that the said party of the second part shall be allowed, at the ports named, a sufficient and reasonable time for loading, taking her turn as reported ready to load, and have such dispatch as the Department may give, she receiving (if furnished) at the rate of not less than 120 tons per day; and for discharging the vessel, lay-days shall be allowed, commencing on reporting to the commanding officer at each station, at the rate of not less than one working day for every twenty-five tons of coal, at each stopping-place before named; the sailing-time between each station not to be counted as lay-days. And in case the vessel is longer detained, the said party of the second part agrees to pay the said party of the first part demurrage at the rate of $75 per day for every day so detained, provided such detention shall happen by default of the said party of the second part or their agents.

It is also agreed that the cargo shall be received and delivered alongside within reach of the vessel's tackles.

It is further agreed that this charter shall commence when the vessel is ready to receive cargo at her place of loading, and notice thereof is given to the party of the second part; and the commanding officer at each station shall commence receiving the cargo as soon as the vessel shall have reached the places designated for the deposit of the cargo, and she is reported by the master as ready to discharge.

Qualifications inserted in the bills of lading by the master or others will not be received as a modification of this charter, or be to its detriment.

It is hereby expressly provided, and this charter is upon the express conditions, that if any member of Congress, officer of the Navy, or other person holding any office or appointment under the Navy Department, shall be admitted to any share or part of this agreement, or to any benefit to arise therefrom, the same may be, at the option of the United States, declared null and void, without affecting their right to recover for default.

To the true and faithful performance of all the foregoing covenants and agreements, the said party of the first part do hereby bind themselves, their heirs, executors, ad-

ministrators, and assigns, also the said vessel, her freight and appurtenances, in the penal sum of $12,000.

In witness whereof the said parties hereunto interchangeably set their hands the day and year first above written.

GEO. W. EDGE.
JAMES S. CHAMBERS,
Navy Agent.

Signed in the presence of—
C. A. GRISCOM,
Witness to signature of captain.
THEO. C. UHLER,
Witness of James S. Chambers.

United States of America:

By this public instrument of protest, be it known and made manifest unto all whom it may concern, that on the 19th day of September, in the year of our Lord 1861, before me, P. C. Ellmaker, notary public for the commonwealth of Pennsylvania, duly commissioned and sworn, residing in the city of Philadelphia, and by law authorized to administer oaths and affirmations, personally appeared George W. Edge, master, Sidney A. Hodge, first mate, J. W. Farrin, seaman, of and belonging to the ship or vessel called the John Carver, of the port of Bath, Maine, of the burden of nine hundred and seventy-six tons, or thereabouts, and they, the said appearers, having been by me, the said notary public, severally duly sworn according to law, did respectively declare and say, that they sailed in their several capacities aforesaid, on the 23d day of July, 1861, from the port of Philadelphia, in and with the said vessel, she being then tight, stanch, and strong, properly manned, and provided with all necessary apparel, stores, and provisions, and in every other respect well adapted for her intended voyage, and having on board a cargo of coal, properly stowed and secured, and bound for Key West; and that on the 28th of July they proceeded to sea, and continued the voyage with fine weather, until on the 11th of August, at 5 a. m., saw a full-rigged brig on the lee bow, three miles distant, and found she outsailed us. At about 6.30 a. m. she hoisted the French flag, and, judging the brig to be a privateer, we tacked ship to starboard at 7.30, when the brig immediately tacked also, bringing him on our weather quarter about five miles distant. The brig then hauled down the French flag, and gave chase. At 12 m., latitude 29° 51′, longitude 67° 50′, the wind falling calm, and the ship making but little headway, at 3 p. m. the brig threw a shot across our bows, at the same time hoisting the French flag again. We then hoisted the American flag, and perceiving they were about sending a boat from the brig, she being less than a mile distant from us, we hove the main-yard aback. The brig's boat then came alongside with the second lieutenant (Stuart) and captain of marines (Sandrew) with a boat's crew of sailors, and a file of marines armed with muskets, bayonets, &c. When they came on board the officer in command (Stuart) asked where we were bound, where from, &c., and, on obtaining some newspapers, left the ship and pulled for the brig; on which we immediately made sail, but there being no wind, did not make headway. We then saw the boat push off with an extra supply of men and arms, and, on getting alongside, they boarded the ship. The officer (Stuart) told us we were a prize to the privateer Jeff. Davis, and that the captain, officers, and crew of the ship must get ready immediately to go on board the brig, the brig's men meanwhile searching the ship for small-stores, liquors, &c. The crew of the ship having been sent on board the brig, the captain and first and second mates remained on board, and these were ordered into a boat, and sent alongside the brig, which they reached at 6 p. m. At about 7 p. m. it appeared that the pirates had set the ship on fire, as the smoke and flame broke out forward. The brig's boats were then hoisted on board, and a breeze springing up, all sail was made. The crew were then put in irons, and the officers confined in the cabin, from which they were not allowed to move until they left the vessel, and were also put in irons on the third day after the capture of their vessel. On approaching Saint Augustine they could see a pilot-boat, from which a flag was waved to right and left to guide the vessel in the channel, but getting too far north she struck, which obliged them to throw overboard a quantity of cannon-balls to lighten her. The captain and mates were then ordered into the boats which had been lowered, the irons being taken off the captain, the mates and crew being kept in irons. Subsequently, as there was considerable danger in landing, the mates had their irons taken off, and we all took oars and pulled in, the sea boarding us every moment. We were then transferred to the pilot-boat andproceeded to town, being sent on shore in charge of a lieutenant of a company stationed at Saint Augustine, and were taken to the barracks. The captain's trunks, charts, two chronometers, two octants, two barometers, and all his nautical works were seized and retained: that the pirates set the ship John

Carver on fire, bored holes in her bottom, and caused the said ship to sink; and that the master, officers, and crew, (with the exception of ten men liberated at Fernandina as foreigners,) after having been detained twenty-one days in prison, were taken to Richmond, and, finally, released on parole, and arrived at Philadelphia, on the 17th of September, 1861; that any losses, injury, or damage suffered or sustained by said vessel or her cargo are entirely owing to the causes hereinbefore related, and not to any omission, neglect, or mismanagement of the said master, his officers or crew.

Wherefore, these appearers now desire to protest, requiring an act thereof from me, the said notary public, to avail them when and where needful and necessary; and, in testimony of the truth of the premises, have hereunto respectively set their hands.

GEORGE W. EDGE.
SIDNEY A. HODGE.
J. W. FARRIN.

Whereupon I, the said notary public, at the request aforesaid, *have protested*, and by these presents *do protest*, against the said causes and occurrences, for all and every loss and losses, injuries, damages, costs, charges, breaches of charter-party, or bills of lading, which have been or may be suffered or sustained thereby, that the same may be submitted unto, suffered, and borne by them to whom of right it doth, shall, or may belong.

The same having been duly noted before me on the 18th of September instant.

Thus done and protested by me, the said notary public, at the city of Philadelphia, the 19th day of September, A. D. 1861.

Quod. attestor.

[SEAL.] P. C. ELLMAKER, *Notary Public.*

UNITED STATES OF AMERICA.
State of Pennsylvania, City of Philadelphia, ss:

I, Samuel Sherrerd, of the city of Philadelphia, a notary public, duly commissioned and sworn, under the authority of the commonwealth of Pennsylvania, do hereby certify that the foregoing is a true copy of a certain instrument of protest made before P. C. Ellmaker, notary public for the commonwealth of Pennsylvania, September 19, 1861, by George W. Edge, master of the ship John Carver, of Bath, Maine, and by him and a portion of his crew duly subscribed and sworn to, the same having been carefully transcribed from and compared with the original instrument in my possession.

In testimony whereof I have hereunto set my hand and notarial seal, this 17th day of January, A. D. 1871.

[SEAL.] SAMUEL SHERRERD, *Notary Public.*

BATH, *December*, 1871.

SIR: Will you please be so kind as to give me your opinion of what would be a fair cash valuation of a ship of 976 tons, in August, 1861, at that time one year old, and just mettaled, and provisioned for six months, the ship rating 33.11 French veratas for seven years.

Your extensive ownership, large experience in building, and very extensive commercial relations, induces me to solicit your opinion on valuation, and only desire that you may base your valuation solely upon your own views. An early reply will greatly oblige,

Truly, yours,

OLIVER MOSES.

Hon. J. P. MORSE.

BATH, *December* 30, 1871.

DEAR SIR: In answer to the foregoing inquiry would say that, in my opinion, the fair cash value of a ship of the class referred to would be $75 per ton at that time; total value, $73,200.

Having had some thirty years' experience in the building, purchasing, selling, and sailing of ships, I think I am safe in giving the above estate.

Truly, yours,

J. P. MORSE.

Mr. MOSES.

---

52 SOUTH STREET, NEW YORK, *February* 17, 1871.

DEAR SIR: In reply to your inquiry as to the value of a first-class ship of a thousand tons register, (in August, 1861,) said ship having been newly metaled, and provisioned for six months, and only one year old, I beg to say, from the experience I have had in

ships previous and subsequent to that date, (1861,) I am of the opinion that a ship of the tonnage and description, as above stated, and at the period named, was worth $72,000.

Respectfully, yours,

F. A. CROCKER,
Firm of Crocker, Wooa & Co.

OLIVER MOSES, Esq., *Bath, Maine.*

---

56 SOUTH STREET, P. O. BOX 4253,
New York, February 17, 1871.

DEAR SIR: In answer to your inquiry of the 14th, as to our opinion of the value of a thousand-ton registered ship, in August, 1861, and metaled at that time, we should say her market value was about $71,000, United States currency.

Yours, truly,

CHARLES L. WRIGHT & CO.

OLIVER MOSES, Esq., *Bath, Maine.*

NEW YORK, *February* 17, 1871.

DEAR SIR: In reply to your inquiry as to value of ship John Carver, at the time of her destruction in 1861, we have to say our estimate of her value then would be $70,000.

Yours, truly,

NESMITH & SONS.

OLIVER MOSES, Esq., *Bath, Maine.*

JAMES W. ELWELL & CO.,
SHIPPING AND COMMISSION MERCHANTS,
57 South street, New York, February 16, 1871.

DEAR SIR: In reply to your favor of the 14th instant, asking to give our opinion as to what would be a fair cash market value in New York for the ship John Carver, built by Mr. F. O. Moses, in Bath, Maine, in the year 1860, measuring 976 tons, register measurement, and new metaled in the summer of 1861, at Philadelphia, and rating 33.11 French veratas for seven years—say in the month of August, 1861, having had an experience of some thirty-three years in the purchasing, selling, and building of ships and vessels, we, in our opinion, would say that the ship John Carver's cash market value in August, 1861, at the port of New York, was $70 per ton, or $68,320.

We sold the ship H. V. Baxter for you, about the same size, built same year as the John Carver, for $75,000. This transaction was made in 1862.

Respectfully, yours,

JAS. W. ELWELL & CO.

OLIVER MOSES, Esq., *Bath, Maine.*

BATH, MAINE, *March* 28, 1872.

GENTLEMEN: Annexed you will please find additional evidence which we desire to have placed on file with the claim made by ourselves, and now before your committee.

First. A copy of President Lincoln's proclamation declaring southern ports closed, the same bearing date previous to the charter of the ship John Carver to the Government.

Second. An affidavit of James A. Wright, senior member of the firm of Peter Wright & Sons, of Philadelphia. This affidavit shows that a demand was made upon the Government to convoy or arm the ship.

Third. An affidavit of William Harbeson, deputy collector of customs at the port of Philadelphia, at the date of clearance of the ship John Car-

ver for Ship Island, under Government charter, which is of the same purport as that of Mr. Wright.

Fourth. A copy of correspondence between the collector of the port of Philadelphia and the Treasury and Navy Departments, requesting that the ship John Carver be armed. This correspondence was at the request of the master of said ship.

Fifth. Affidavit of J. H. Kimball, esq.

Sixth. Affidavit of Edwin Reed, esq. The affidavits of Messrs. Kimball and Reed show conclusively that the commercial men in this section of the country felt perfectly secure until after the date of the loss of the said ship, when they began to protect themselves by placing war risks upon their vessels.

Seventh. Letter of Charles Platt, esq., vice-president Insurance Company of North America, of Philadelphia. The above letter same purport of the affidavits of Messrs. Kimball and Reed.

We would most respectfully call your attention to an act of Congress March 3, 1849, "An act providing for the payment of horses and other property lost or destroyed in the military service of the United States." Also to the fifth section of act of March 3, 1863, extending the act of 1849 to steamboats and other vessels.

The ship John Carver cannot be considered as a common carrier while in the employ of the Government, she having been under a contract to the Government for her entire capacity, at a specified sum per ton, and was loaded by the Government to her full capacity. Therefore, the ship was actually in the military service of the United States, (by contract,) and while in such service was, without any fault of either master or owners, destroyed by the enemy.

We would respectfully call the attention of the committee to the act of Congress for the relief of James Hooper, passed and approved July 13th, 1868. (Stat. Large, vol. 15, page 380.)

This bill was for the payment for bark General Berry, lost while in the military service of the United States.

Most respectfully,

OLIVER MOSES,
For owners of ship John Carver.

The COMMITTEE OF CLAIMS,
House of Representatives, Washington, D. C.

UNITED STATES OF AMERICA, *Department of State.*

To all to whom these presents shall come, greeting:

I certify that hereto annexed is a true copy of four proclamations made by Abraham Lincoln, President of the United States—one dated on the 19th of April, 1861; one on the 27th of the same month, in the same year; and two on the 11th of April, 1865; the originals of which proclamations are on file in this Department.

In testimony whereof I, Hamilton Fish, Secretary of State of the United States, have hereunto subscribed my name, and caused the seal of the Department of State to be affixed.

Done at the city of Washington this tenth day of February, anno Domini one thousand eight hundred and seventy-two, and of the Independence of the United States of America the ninety-sixth.

[SEAL.] HAMILTON FISH.

By the President of the United States of America.

A PROCLAMATION.

Whereas an insurrection against the Government of the United States has broken out in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, and the laws of the United States for the collection of the revenue cannot be effectually executed therein conformably to that provision of the Constitution which requires duties to be uniform throughout the United States; and whereas a combination of persons engaged in such insurrection have threatened to grant pretended letters of marque, to authorize the bearers thereof to commit assaults on the lives, vessels, and property of good citizens of the country lawfully engaged in commerce on the high seas and in waters of the United States; and whereas an executive proclamation has been already issued, requiring the persons engaged in these disorderly proceedings to desist therefrom, calling out a militia force for the purpose of repressing the same, and convening Congress in extraordinary session, to deliberate and determine thereon:

Now, therefore, I, Abraham Lincoln, President of the United States, with a view to the same purposes before mentioned, and to the protection of the public peace, and the lives and property of quiet and orderly citizens pursuing their lawful occupations, until Congress shall have assembled and deliberated on the said unlawful proceedings, or until the same shall have ceased, have further deemed it advisable to set on foot a blockade of the ports within the States aforesaid, in pursuance of the laws of the United States and the law of nations in such case provided. For this purpose, a competent force will be posted so as to prevent entrance and exit of vessels from the ports aforesaid. If, therefore, with a view to violate such blockade, a vessel shall approach, or shall attempt to leave either of the said ports, she will be duly warned by the commander of one of the blockading vessels, who will indorse on her register the fact and date of such warning; and if the same vessel shall again attempt to enter or leave the blockaded port, she will be captured and sent to the nearest convenient port, for such proceedings against her and her cargo as prize as may be deemed advisable.

And I hereby proclaim and declare that if any person, under the pretended authority of the said States, or under any other pretense, shall molest a vessel of the United States, or the persons or cargo on board of her, such person will be held amenable to the laws of the United States for the prevention and punishment of piracy.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this nineteenth day of April, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth.

[SEAL.] ABRAHAM LINCOLN.

By the President:
WILLIAM H. SEWARD,
Secretary of State.

By the President of the United States of America.

A PROCLAMATION.

Whereas for the reasons assigned in my proclamation of the 19th instant, a blockade of the ports of the States or South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas, was orded to be established:

And whereas, since that date, public property of the United States has been seized, the collection of the revenue obstructed, and duly commissioned officers of the United States while engaged in executing the orders of their superiors have been arrested and held in custody as prisoners, or have been impeded in the discharge of their official duties without due legal process, by persons claiming to act under authorities of the States of Virginia and North Carolina, an efficient blockade of the ports of those States will also be established.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-seventh day of April, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth.

[SEAL.] ABRAHAM LINCOLN.

By the President:
WILLIAM H. SEWARD,
Secretary of State.

[Closing certain ports, April 11, 1865.]

By the President of the United States of America.

A PROCLAMATION.

Whereas, by my proclamation of the nineteenth and twenty-seventh days of April, one thousand eight hundred and sixty-one, the ports of the United States in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, were declared to be subject to blockade; but whereas the said blockade has, in consequence of actual military occupation by this Government, since been conditionally set aside or relaxed in respect to the ports of Norfolk and Alexandria, in the State of Virginia; Beaufort, in the State of North Carolina; Port Royal, in the State of South Carolina; Pensacola and Fernandina, in the State of Florida; and New Orleans, in the State of Louisiana;

And whereas, by the fourth section of the act of Congress approved on the thirteenth of July, eighteen hundred and sixty-one, entitled "An act further to provide for the collection of duties on imports and for other purposes," the President, for the reasons therein set forth, is authorized to close certain ports of entry:

Now, therefore, be it known that I, Abraham Lincoln, President of the United States, do hereby proclaim that the ports of Richmond, Tappahannock, Cherrystone, Yorktown, and Petersburgh, in Virginia; of Camden, (Elizabeth City,) Edenton, Plymouth, Washington, New Berne, Ocracoke, and Wilmington, in North Carolina; of Charleston, Georgetown, and Beaufort, in South Carolina; of Savannah, St. Mary's, and Brunswick, (Darien,) in Georgia; of Mobile, in Alabama; of Pearl River, (Shieldsborough,) Natchez, and Vicksburgh, in Mississippi; of St. Augustine, Key West, St. Mark's, (Port Leon,) St. John's, (Jacksonville,) and Apalachicola, in Florida; of Teche, (Franklin,) in Louisiana; of Galveston, La Salle, Brazos de Santiago, (Point Isabel,) and Brownsville, in Texas, are hereby closed, and all right of importation, warehousing, and other privileges, shall, in respect to the ports aforesaid, cease until they shall have again been opened by order of the President; and if, while said ports are so closed, any ship or vessel from beyond the United States, or having on board any articles subject to duties, shall attempt to enter any such port, the same, together with its tackle, apparel, furniture, and cargo, shall be forfeited to the United States.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this eleventh day of April, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States of America the eighty-ninth.

[SEAL.] ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

[Port of Key West to remain open, April 11, 1865.]

By the President of the United States of America.

A PROCLAMATION.

Whereas, by my proclamation of this date, the port of Key West, in the State of Florida, was inadvertently included among those which are not open to commerce:

Now, therefore, be it known that I, Abraham Lincoln, President of the United States, do hereby declare and make known that the said port of Key West is, and shall remain, open to foreign and domestic commerce upon the same conditions by which that commerce has there hitherto been governed.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this eleventh day of April, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States of America the eighty-ninth.

[SEAL.] ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

UNITED STATES OF AMERICA,
State of Pennsylvania, City of Philadelphia, ss:

Be it known that on the day of the date hereof before me, J. W. Hampton, jr., notary public for the commonwealth of Pennsylvania, duly commissioned and sworn, residing in the city of Philadelphia, personally appeared James A. Wright, one of the firm of Peter Wright & Sons, who, being duly affirmed according to law, did depose and say, that I went during the year 1861 with Captain Edge, master of ship John Carver, then loaded with coal for account of the United States Government, and bound for Ship Island, to William Harbeson, then acting deputy collector of customs at the port of Philadelphia, and made application for arms or a convoy to be furnished to the said ship; that our application was refused, and we were referred to the commander of the navy-yard. That we then visited the commander of the navy-yard and made the same application, which was also refused. We then were referred by William Harbeson, deputy collector, to William B. Thomas, the collector, who promised to and did write to the proper Department at Washington in our behalf; that in due course of time an answer was received from Washington in which the Department declined to comply with our application.

JAMES A. WRIGHT.

Affirmed and subscribed to before me this 25th day of March, A. D. 1872.
[SEAL.]
J. W. HAMPTON, JR.,
Notary Public.

UNITED STATES OF AMERICA,
State of Pennsylvania, City of Philadelphia, ss:

Be it known that on the day of the date hereof, before me, J. W. Hampton, jr., notary public for the commonwealth of Pennsylvania, duly commissioned and sworn, residing in the city of Philadelphia, personally appeared William Harbeson, of Philadelphia, State of Pennsylvania, late deputy collector of customs at the port of Philadelphia, who, being duly sworn according to law, did depose and say that I was connected with the customs department at Philadelphia for about twenty years, and that I was deputy collector at said port during the year 1861; that during said year Captain George W. Edge, master of ship John Carver, together with one of the firm of Peter Wright & Sons, made to me, as deputy collector as aforesaid, an application for arms to be furnished to the said vessel, then loaded with coal for the United States Government, and bound for Ship Island, to protect her from capture, which I refused, on the ground that I had no authority to comply with the application, and referred them to the commander of the navy-yard. That a short time afterward I received from Peter Wright & Sons information that the commander of the navy-yard declined to furnish the arms asked for. I then referred them to the collector of customs for further information.

WM. HARBESON.

Sworn and subscribed to before me this 25th day of March, A. D. 1872.
[SEAL.]
J. W. HAMPTON, JR.,
Notary Public.

CUSTOM-HOUSE, PHILADELPHIA,
Collector's Office, July 16, 1861.

SIR: Captain George W. Edge and the owners of the ship John Carver, now loading with coal for the Gulf fleet, desire to be furnished with two guns suitable for the protection of their vessel during the voyage. They will give ample security for the safe return of the guns.

Captain James O'Neil and the owners of the schooner Jamestown, for Key West, also loading with coal for the Government, decline proceeding on the voyage unless they are in some way secured from loss from capture by the pirates now infesting that region.

I fear unless something is done to secure the owners of vessels with supplies for our fleet from loss, supplies will be cut off.

WM. B. THOMAS,
Collector.

The SECRETARY OF TREASURY.

TREASURY DEPARTMENT,
July 17, 1861.

SIR: Your letter of the 16th instant, submitting the applications of the masters and owners of the ship John Carver and schooner Jamestown, loading with coal at your port for the Gulf fleet, for guns for the protection of their vessels, has been referred to the Secretary of the Navy, to whom such applications should be made.

I am, very respectfully,

S. P. CHASE,
Secretary of the Treasury.

W. B. THOMAS, Esq.,
Collector, &c., Philadelphia, Pennsylvania.

NAVY DEPARTMENT, *July* 23, 1861.

SIR: The honorable Secretary of the Treasury has referred to this Department your letter addressed to him on the 16th instant, in relation to the application of the owners of the ships John Carver and Jamestown, chartered to take coal to the Gulf, to be furnished with guns for the protection of their vessels.

The Department is unable to furnish guns for merchant vessels chartered for a special voyage. If they will not proceed with the coal they can put it out of their vessels, and others will be procured.

I am, respectfully, &c.,

GIDEON WELLES.

WM. B. THOMAS, Esq.,
Collector, &c., Philadelphia.

STATE OF MAINE, *County of Sagadahoc, City of Bath, ss:*

MARCH 14, 1872.

The undersigned hereby certifies that for more than twenty years past he has been engaged in the business of marine insurance, in the city of Bath; that during the late war of the rebellion, from 1861 to 1865, he insured vessels, their freights and cargoes, to a very large amount, against the risk of war, and that the first risk so insured by him was entered on the 21st day of September, A. D. 1861.

JOHN H. KIMBALL.

BATH, STATE OF MAINE, *Sagadahoc County, ss:*

Personally appeared the above-named John H. Kimball, and made oath to the above statement, signed by him.

J. W. WAKEFIELD,
Justice of the Peace.

BATH, STATE OF MAINE, *County of Sagadahoc, ss:*

This is to certify that we, F. & E. Reed, of Bath, are now, and have been for the past fifteen years, engaged in the business of marine insurance in this city; that during the late war of the rebellion, from 1861 to 1865, inclusive, we insured vessels, freights, and cargoes, for sundry persons, against the risk of war, to an amount exceeding four millions of dollars, and that the first risk entered by us on any vessel against the risk of capture or destruction by any cruiser of the insurgent or so-called Confederate States of America was on the 8th day of September, A. D. 1861, and not before.

EDWIN REED,
Junior member of firm of F. & E. Reed.

BATH, STATE OF MAINE, *Sagadahoc County, ss:*

Personally appeared before me the within-named Edwin Reed, and made oath to the within statement signed by him.

J. W. WAKEFIELD,
Justice of the Peace.

INSURANCE COMPANY OF NORTH AMERICA, NO. 232 WALNUT STREET,
Philadelphia, March 13, 1872.

DEAR SIRS: In answer to your query as to war risks, we beg to inform you that this company began to assume such risks during the late civil war, in the autumn of 1861.

Respectfully, yours,

CHARLES PLATT,
Vice-President.

Messrs. PETER WRIGHT & SONS.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 170.

SWAMP AND OVERFLOWED LANDS, BROOKLYN NAVY-YARD.

[To accompany bill H. R. 1436.]

MEMORIAL

OF

NEW YORK AND BROOKLYN IMPROVEMENT COMPANY,

RELATIVE TO

Swamp and overflowed lands at navy-yard, Brooklyn, New York.

APRIL 5, 1872.—Referred to the Committee on Naval Affairs and ordered to be printed.

To the honorable Senate and House of Representatives of the United States:

The undersigned, trustees of the New York and Brooklyn Improvement Company, respectfully represent that said company is a body-corporate, with a capital stock of $500,000, organized under and by virtue of the laws of the State of New York for the purposes of purchasing, holding, leasing, renting, improving, using, or conveying real or personal estate in the counties of New York and Kings, in the State of New York.

The undersigned trustees further represent that in the city of Brooklyn, Kings County, New York—on either side of Washington avenue, where it passes through the United States navy-yard property—are two tracts of swamp and overflowed lands, containing about forty acres, belonging to the Government of the United States, which, in their present condition, are not only useless, but from their malarious character are seriously detrimental to the health of the occupants of the navy-yard and the people living in that vicinity.

As those swamps have never been used, and probably may never be required for any purposes connected with the navy-yard, it is reasonable to suppose that the Government would willingly lease them to parties that would fill up and improve said swamps, thus rendering them useful for commercial purposes, and at the same time destroy their unsightly appearance and disease-bearing features.

The following is an estimate of the number of cubic yards of dredging and filling, and the lineal feet of dockage that will be required to make said swamp property available for business purposes:

Estimate.

Dredging, cubic yards	206,966
Filling, cubic yards	396,157
Dockage, lineal feet	6,800

The expenditures necessary for the above work have been estimated by competent engineers to be not less than $500,000.

There are some thirty acres of unoccupied land in the navy-yard, west of the swamp, suitable for use, consequently there is no probability that the Government will make an appropriation of half a million dollars or more for filling up and improving this property; and unless it is improved by private enterprise, and utilized for the benefit of the growing commerce of that section of the city of Brooklyn, it is liable to remain for fifty years longer the same unsightly and malarious marsh. Believing that the Government will not use or require said swamp for any purpose for the next fifty years, if ever, and that the company will eventually be liberally recompensed for money expended in such improvements by the use and rentals of the property, the undersigned trustees, in behalf of said company, hereby respectfully propose to lease said swamp property from the Government of the United States for the term of fifty years, or such less time as may be provided for, upon the following general basis and conditions:

PROPOSITION.

First. The New York and Brooklyn Improvement Company hereby propose to dredge out, fill up, and dock said swamp property in accordance with plans presented by said company, or such as may be hereafter agreed upon by the Secretary of the Navy and said company; and such improvements shall be made in contemplation of the future occupancy of said property by the Government, and under the supervision of the civil engineer of the navy-yard, or some other competent person to be designated by the Secretary of the Navy. The work to be commenced immediately, and to be completed within five years, and a bond of $100,000 to be furnished by said company for the faithful performance of their part of the agreement; and at the expiration of fifty years said company agree to deliver up to the Government all their right, title, and interest in and to the said swamp property, together with all their improvements thereon, without compensation or reward, as a rental for the use of said swamp property.

Second. The said company further agree, in case the Government may require said property, or any portion thereof, after it is improved in accordance with this proposition, for any purpose, that said company will deliver it up to the Government, with all improvements, upon the payment by the Government to the company of the actual amount of money expended by the company in such improvements, together with a reasonable compensation for the use of said money thus expended, as may be agreed upon by the Government and said company. In case of any disagreement in relation to said compensation, then it shall be determined by three disinterested arbitrators: one to be chosen by the Secretary of the Navy, one by said company, and one by the two thus chosen; and the amount of compensation awarded by said arbitrators, or a majority thereof, shall be paid by the Government and accepted by the company.

Third. In consideration of the carrying out of the above proposition, the Government is to agree to grant to said company for the full term of fifty years, or such less term as herein provided for, a lease of all that swamp property belonging to the United States, described as follows, to wit: All that property or real estate belonging to the United States bounded on the south by Flushing avenue, on the west by the west line of Clinton avenue, as extended from Flushing avenue to Wallabout Bay

on the north by Wallabout bay and canal, and property owned by the city of Brooklyn, and on the east by the north and west wall and fence inclosing the United States Naval Hospital, all in the city of Brooklyn, Kings County, and State of New York.

Fourth. It shall be understood and agreed that in case the Government may require said property, or any part thereof, before the expiration of the lease, the said company shall be officially notified of the fact at least three months previous to the 1st day of May of any year that the Government may desire the same, and said company will deliver up possession upon said 1st day of May of the whole or any designated part of said property as hereinbefore provided for.

The purposes for which said swamp property is required and intended to be used are more particularly for slips and docks for the handling and storage of stone, brick, coal, lumber, and other merchandise.

We are, very respectfully, your obedient servants,

WM. F. SHAFFER,
WM. SCHWARZWAELDER,
E. R. MEAELE,
H. M. WILLIAMS,
G. H. WILCOX,

Trustees of the New York and Brooklyn Improvement Company.

REMARKS.

In accordance with the above proposition, the New York and Brooklyn Improvement Company propose to expend $500,000 in permanent and valuable improvements upon the swamp and unproductive property of the United States.

The annual interest upon the said amount, at the rate of 7 per cent., is $35,000. With a lease of fifty years the company surrenders to the United States one-fiftieth part of their investment each year as a rental, which amounts per annum to $10,000; which, added to the interest of $35,000, amounts to the sum per annum of $45,000.

Recapitulation.

Investment in improvements	$500,000
Interest on same, at 7 per cent. per annum	$35,000
Rental per annum surrendered	10,000
Total	45,000

Consequently the company virtually pays to the United States the sum of $45,000 dollars per annum for property that at the present time is worse than useless, and will deliver it back, enhanced in value a thousand-fold, at any time it may be required by the Government of the United States.

Should it be required, it will be ready for immediate use, and probably at very much less expense than the Government would make the same improvements.

Should it not be required, a malarious marsh, in the midst of a populous city, will be converted into valuable and useful property without a dollar's expense to the Government.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 171.

AMERICAN PRINTING-HOUSE FOR THE BLIND.

JOINT RESOLUTION

OF

THE LEGISLATURE OF PENNSYLVANIA,

RELATIVE TO

Granting aid to the American Printing-house and University for the Blind.

APRIL 5, 1872.—Referred to the Committee on Education and Labor and ordered to be printed.

Whereas the central board of trustees of the American Printing-house for the Blind and the American University for the Blind has been incorporated and organized in the District of Columbia under the name of the Board of Regents of the American Printing-house for the Blind and the American University for the Blind; and whereas the objects of said institution are to provide for the blind facilities of instruction not heretofore enjoyed or attainable by them—that is to say, a series of text-books, works of general literature, and illustrative apparatus addressed to the sense of touch, with all other methods conducive to the acquisition of thorough and liberal education; and whereas the respective State boards of trustees of said printing-house or of said university are entitled to representation in said Board of Regents; and whereas it is for the benefit of the blind of the nation, in which those of this State are generally interested, and are recipients of said facilities of education; and whereas there is a bill in Congress to make appropriation to said printing-house and said university for the blind: Therefore,

Be it resolved, That our Senators and Representatives in Congress be requested to favor the granting of aid by an appropriation of money to said institution; and that his excellency the governor be requested to forward a copy of this memorial to our Representatives in Congress.

W. ELLIOTT,
Speaker of the House of Representatives.
JAS. S. RUTAN,
Speaker of the Senate.

Approved the 29th day of March, A. D. 1872.

JNO. W. GEARY.

OFFICE OF THE SECRETARY OF THE COMMONWEALTH,
Harrisburgh, March 29, A. D. 1872.

PENNSYLVANIA, *ss:*

I do hereby certify that the foregoing and annexed is a full, true, and correct copy of the original act of the general assembly, entitled "Joint resolution requesting our Senators and Representatives in Congress to favor the granting of aid to the American Printing-house for the Blind," as the same remains on file in this office.

In testimony whereof I have hereunto set my hand and caused the seal of the secretary's office to be affixed the day and year above written.

[SEAL.]

A. C. REINOEHL,
Deputy Secretary of the Commonwealth.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 172.

STEAMERS NUTRIAS AND SAN FERNANDO.

LETTER

FROM

THE SECRETARY OF STATE,

ADDRESSED TO HON. N. P. BANKS,

RELATIVE TO

The seizure of the steamers Nutrias and San Fernando.

APRIL 5, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

DEPARTMENT OF STATE,
Washington, March 29, 1872.

SIR: I hasten to communicate to you the information derived from a dispatch from Commander E. E. Potter, of the United States steamer Shawmut, to the Secretary of the Navy, and by him transmitted to me, that on the 15th of February Mr. John Dalton, United States consul at Ciudad Bolivar, and Commander Potter took possession of the steamers Nutrias and San Fernando, hoisting the flag of the United States on them; and two days afterward these officers delivered the two steamers to Mr. J. N. Harriman, secretary of the Venezuelan Steam Navigation Company, which is thus once more in possession of them. I shall have the pleasure of sending the dispatch of Commander Potter to you as soon as a copy can be finished, and shall avail myself of the same opportunity to send you a copy of a letter from Mr. Hancox, president of the company, expressed in terms of warm commendation of the proceedings of Captain Potter, under the orders of this Department.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

General N. P. BANKS,
House of Representatives.

DEPARTMENT OF STATE,
Washington, March 30, 1872.

SIR: I have the honor to inclose copies of the report of Commander Potter, and of the letter of Mr. Hancox, relating to the steamers in Venezuela mentioned in my note to you of yesterday.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
House of Representatives.

Inclosures.

1. Copy of dispatch, Commander E. E. Potter to the Secretary of the Navy, February 21, 1872.
2. Copy of letter, J. W. Hancox to the Secretary of State, March 23, 1872.

No. 1.

UNITED STATES STEAMER SHAWMUT, (4th rate,)
Off Ciudad Bolivar, February 21, 1872.

SIR: I herewith report that this ship arrived off Ciudad Bolivar, January 30, after a troublesome passage from Trinidad. The mouth of the river is very difficult to find, and we dragged through over a foot of mud for several miles; a heavy sea rolls in, and I would suggest that vessels of this draught of water are too heavy to be used in this river. We were aground over a day on Yaya Pass, and as we reached the head of the passes, found coming to anchor in the Macarea River the Venezuelan naval force, mentioned in my communication from Trinidad of the 20th instant. The American steamboat Hero came in sight also. I communicated with the Venezuelan squadron and the Hero. The latter vessel came up and anchored near us, and Mr. Harriman, special agent of the Venezuelan Steam Transportation Company, came on board, and showed me a copy of a letter he had received from the Venezuelan consul general at Trinidad, authorizing the Hero to pass through their lines to communicate with this ship. The 28th January I anchored below Guayana Viejo, the commencement of the line occupied by the Blues or revolutionary party, and sent an officer to ask permission to pass through their lines; the Hero asking the same permission. The next day, both vessels receiving permission, we steamed up the river, and anchored off the city January 30, p. m.; found the steamer San Fernando here, but the Nutrias was up the river. January 31, in company with the consul and Mr. Matthewson, the local agent of the Venezuelan Steam Transportation Company, I called upon General Sandoval, military chief, and, I understood, the third one who has been in power in three weeks. On the 15th February Mr. Dalton and I took formal possession of the steamers Nutrias and San Fernando, hoisting the United States flag on board of them. You will see by the inclosed receipt, marked "A," and the report of the survey, marked "B," the Venezuelan Transportation Company are once more in possession of their steamers. The city of Ciudad Bolivar was evacuated by the Blues on the 15th, and occupied by the opposing forces on the 16th of February; the blockading squadron anchoring off the city the 18th instant. The country appears to be temporarily quiet. Owing to the illness and occupation of Mr. Matthewson, I am unable to obtain translations of the passed between the authorities here and Mr. Dalton and myself, to send by this opportunity; but will, in all probability, be enabled to do so by the next mail. The water has fallen over six feet, and it is impossible for the ship to go down until a rise in the river, which commences generally about the 1st of April. I fear it will be quite the 1st of May before the ship can reach Trinidad, but the American steamer Hero is expected to run regularly between this point and Port Spain, and by her we can obtain our mails and such supplies as we may require.

Very respectfully, your obedient servant,

EDW'D E. POTTER,
Commander, Commanding.

HON. GEORGE M. ROBESON,
Secretary of the Navy, Navy Department, Washington, D. C.

No. 2.

NEW YORK AND TROY STEAMBOAT COMPANY, PIER 44 NORTH RIVER,
New York, March 23, 1872. (Received March 25.)

DEAR SIR: Inclosed I forward you Trinidad paper, giving an account of the overthrow of the revolutionists in Venezuela. The timely arrival of the American war steamer Shawmut, forwarded by order of your Department, saved the lives of many foreigners, and prevented the entire destruction of the American steamers. Captain Potter, in charge of the Shawmut, by dispatches and advices received from Mr. Harriman, secretary of our company, has nobly vindicated the rights of his country, and is

worthy of great credit in navigating his ship four hundred miles into the interior of an enemy's country and producing these desired results. For the performance of this distinguished service, I would most earnestly and respectfully solicit your kind influence in reinstating him in his former position, he having been suspended by the Navy Department.

I am, sir, with great respect, your obedient servant,

J. W. HANCOX,
President Venezuela Steam Transportation Company.

Hon. HAMILTON FISH,
Secretary of State.

[Inclosure.]

[From the Port of Spain Gazette, Trinidad, March 9, 1872.]

"VENEZUELA.

"By the arrival of the Hero on the 24th ultimo, we received the welcome news of the complete defeat of the revolutionary chiefs in Venezuela, and the establishment of law and order throughout the republic. Bolivar was in the hands of the government, and all the States of the republic had made their submission. Señor Gutierrez was at Bolivar. The collapse of the Blue party in Guayana, seems to have been due to their own tyranny even more than to the victory of the President. Their acts of lawlessness, robbery, and extortion can only be classed with the worst deeds of the commune of Paris. Their violence was not confined to Venezuelans alone, but was extended to foreigners peacefully trading under a neutral flag. The German and Italian consuls were among the number of their victims—both having been put in prison and most cruelly treated. Their last act of treachery to their country was to burn the very fine schooner-of-war 27te de Abril. The so-called Blue government pretended to be the protectors of religion, but their treatment of his grace, the bishop, was scandalous in the extreme. Their outrages were only stopped by the arrival of the American steamer-of-war Shawmut, and the rising of the whole State as one man against their tyranny and injustice.

"After the defeat of General Olivo, the President, General Guzman Blanco, leaving at Apuré two thousand men under General Créspo, entered Valencia, the capital of Carabobo, where he met with quite an ovation. The blockade of the Orinoco is at an end. Maracaibo and the other States of the west continue to enjoy the blessings of peace.

"The secretary of foreign affairs, Señor Antonio L. Guzman, has issued an order to all the officials throughout the republic, calling upon them, under pain of instant dismissal, to give every encouragement to foreign residents, and protect them to the utmost of the law. The decree states that any maltreatment of foreign residents will be most summarily and severely punished. We hope the foreign governments, and especially our own, will try, in return for this, to do something to support the acknowledged and *de facto* government; and will not, as heretofore, lend its moral if not its legal support to every petty rising against that government. The republic may now be said to have returned to a state of peace. The President may now soon be expected in Caracas; and the state of the republic warrants the belief that on his return he will summon the congress, abrogate the dictatorship, and return to constitutional government. May the peace now obtained be a lasting one."

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 173.

SURVEY OF THE COLORADO RIVER OF THE WEST.

LETTER

FROM THE

SECRETARY OF THE SMITHSONIAN INSTITUTION,

TRANSMITTING

Report preliminary for continuing the survey of the Colorado of the West and its tributaries, by Professor Powell.

APRIL 5, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

SMITHSONIAN INSTITUTION,
Washington, March 29, 1872.

DEAR SIR: I have the honor to present herewith a preliminary report of a survey, made in accordance with an act of Congress of March 3, 1871, "for continuing the survey of the Colorado of the West, and its tributaries, by Professor Powell, under the direction of the Smithsonian Institution."

The region mentioned is one of the most interesting, in a geological point of view, in this or any country. The Colorado of the West, and its tributaries, traverse chasms in some places over a mile below the general surface of the country, presenting in many places, at one view, sections of the greater number of all the known geological formations of America. The importance of the exploration, however, is not confined to the advance of science, but is also associated with practical results of value, such as the discovery of coal, salt, the metals, and other resources of the country.

From the specimens deposited in the Institution by Professor Powell, which include, besides those of mineralogy and geology, illustrations of the manners and customs of the people, as well as from maps and drawings which have been exhibited to us, it appears that the work has been well and economically done, and that it forms an important addition to our knowledge of the physical geography of our continent, yet so imperfectly known.

In view of the results already obtained, at a comparatively trifling expense, I would respectfully commend the application of Professor Powell for a renewed appropriation for completing the survey included in his proposed exploration.

I have the honor to be, very respectfully and truly, your obedient servant,

JOSEPH HENRY,
Secretary of Smithsonian Institution.

Hon. J. G. BLAINE,
Speaker of the House of Representatives.

WASHINGTON, D. C., *March* 25, 1872.

SIR: I have the honor to submit herewith a brief report of the progress made in the exploration of the Colorado of the West, and its tributaries, by the party under my charge.

This report is made in obedience to your instructions, given for the purpose of executing the will of Congress expressed in the following extract from an "act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1872, and for other purposes,' approved March 3, 1871, namely:

* * * * * For continuing the completion of the survey of the Colorado of the West and its tributaries, by Professor Powell, under the direction of the Smithsonian Institution, twelve thousand dollars.

The region of country embraced in this exploration is cut by profound gorges, traversed by towering cliffs, and receiving but a very small amount of rain. Much of it is a desert country.

The Green is properly a continuation of the Colorado, and along its meandering course, from the point where it is crossed by the Pacific Railroad to its junction with the Grand, the head of the Colorado, has a length of about three hundred and fifty miles.

The length of the Colorado from this point to the point below the mouth of the Virgin River, reached by Lieutenant Ives, in his exploration of the Lower Colorado, is about six hundred miles, making in all an extent of river of nine hundred and fifty miles to be explored.

The descent of the river in this distance is nearly six thousand feet. In my former exploration of the river I found that the greater part of this descent is made in six different groups of rapids and falls.

The first series is in Red Cañon, where Green River cuts through the northern slope of the Uintah Mountains.

The second series was found in the cañon of Ladore, Whirlpool, and Split Mountain cañons, where the Green River cuts through the southern slope of the Uintah Mountains.

Through these cañons the river falls fifteen hundred feet.

The third series of rapids and falls is found in the cañon of Desolation, where Green River cuts through a plateau south of Uintah and White River valleys, and having a general elevation above these valleys of from four to five thousand feet. Through this cañon the fall of the water is about seven hundred feet.

The fourth series is found in Cataract Cañon, below the junction of the Grand and Green, where the Colorado cuts through another high plateau.

The descent of the river through this cañon is about nine hundred feet.

The fifth series is in Marble Cañon, between the mouth of the Paria and the Little Colorado, where the main river cuts into a plateau, on the north elevated but two or three hundred feet above the river, gradually rising toward the south, until the general elevation of the plateau is more than five thousand feet above the river at the point where the Little Colorado enters it.

Through this the descent is about five hundred feet. The sixth series is found in the Grand Cañon, where the river cuts through a plateau having an elevation from four to seven thousand feet above the stream. Here the descent of the water is about two thousand feet. The remaining fall occurs along the more quiet portions of the stream.

Along the greater part of their course these rivers are inaccessible from the summits of the cliffs by which they are overhung.

In my former explorations I found that the only practicable method

of exploring these rivers would be in small boats which could be carried over the rapids and falls, and that the exploration should proceed down the streams.

It was further found that, in the small boats necessary to be used, it would be impossible to carry sufficient supplies for the time required to accomplish the work.

From these considerations it was deemed best to explore a number of routes from the settlements in Utah, along the western slope of the Wasatch Mountains and the valley of the Sevier, to the Green and Colorado Rivers, by which supplies could be taken to the boat-party on its progress down the cañons.

On the 5th of August, 1870, having engaged the services of a competent topographer and assistant topographer, I proceeded to Salt Lake City, where I purchased the animals and outfit for a small pack-train, and employed the men necessary to manage it.

Two routes by which Green River could be reached from the settlements in Utah were already known: one at the mouth of the Uintah, and one at Gunnison's Crossing, below the mouth of Price River.

To the first of these I sent an installment of supplies deemed sufficient to last a boat-party three months.

Having made arrangements for the transportation of these supplies, I proceeded with my party to the valley of the Sevier; passed up to its head near the southern line of Utah. From thence I crossed the divide between the headwaters of the Sevier and the headwaters of the Paria, and descended this stream to its mouth, and found it a practicable route by which to get supplies to the Colorado.

I then returned up this cañon to the eastern base of the Sevier plateau, and, skirting along its base to the south, I found my way to the town of Kanab. Here I met supplies that I had sent from Salt Lake City via Beaver and Saint George.

Waiting a few days to rest the animals and prepare the outfit, I sent for a number of Indians, desiring to gain from them some knowledge of the country to the south.

On the 14th day of September, acting on information received from the Indians, I started in a southwesterly direction, and in three days reached the base of the Yuingkaret Mountains.

On the fourth day I crossed these mountains and established a camp on the southern slope. I then sent out my Indian guides, and in two days gathered the chiefs and principal warriors of the tribe which inhabits this region. I explained the object of my visit, distributed presents among them, and obtained a promise from them that we might travel unmolested through their country. They gave me, also, valuable information concerning the location of trails and watering-places, and furnished me a guide. With this assistance I was enabled, within a week, to discover a practicable route into the Grand Cañon. I then returned to Kanab.

On my arrival at Kanab, I at once proceeded to make arrangements for the additional supplies that would be needed during the coming winter. Thirteen days were occupied in this work. In the mean time I had ordered, through the telegraph, a small quantity of Indian goods to be sent to Saint George, and I had sent a wagon to meet them at that point and transport them to Kanab. These articles consisted of cloth, indigo, knives, files, and some other things which it was believed the Indians, among whom I expected to travel, would desire. This time, too, was much needed by the topographers to put their field-notes and sketches in proper form for preservation and future use.

On the 11th day of October, having all things in readiness, I started once more for the Colorado. Sending my train to the valley of the Skumppa, I gave directions that it should proceed down this valley to the foot of the Kaibab plateau; and from thence around the north end of this plateau to the head of House Rock Valley; from thence, down and across this valley to the foot of the Vermillion Cliffs, and leaving House Rock Valley where it narrows into a cañon, to follow the cliffs to the Colorado River.

Taking one man with me, I crossed to the Kaibab in a southeasterly direction, and passed along its foot to the southern extremity. There I climbed the plateau, and obtained a good view between that point and the brink of the Grand Cañon. I believed that the character of the country was such as to warrant an exploration for another route to th river. I then crossed the plateau to a point where the cliffs overhang the river, opposite the mouth of the Little Colorado, but no way was discovered by which the river could be reached. From thence I passed along the plateau to the north, and descended into House Rock Valley; found the trail made by my train, which I followed, and joined the party at the Colorado River.

While waiting for me, the party had constructed a small ferry-boat and crossed to the other side. The boat was made of lumber, transported on mules from Kanab, a distance of one hundred and ten miles.

The next morning, being the 19th day of October, we started in a southeasterly direction toward the seven Shinomo villages, in Northeastern Arizona, also called the "Moqui villages" and the "Province of Tusayan."

Our route lay along the base of a line of cliffs, and we were rejoiced to find a good trail in the direction in which we wished to travel. We had anticipated much trouble in finding water, but from time to time the trail led to springs or water-pockets, and these at such short intervals that no serious want was experienced.

On the ninth day out from the river, we arrived at the ancient town of Oraiby. The simple people of this town received us kindly, and we spent five weeks studying their language, domestic customs, arts, and mythology, in the mean time visiting the six other towns of this "province." The party then started for Fort Defiance, and arrived there on the 5th day of December.

From the time we left the valley of the Sevier to the time we reached Oraiby, the topographers had run a meandering line of our travels with the compass, and sketched the topography adjacent to the route to a greater or lesser distance, as time and opportunity would permit. A barometrical record was kept, and observations made of important altitudes. Frequent astronomical observations were made with the sextant for latitude, but none for longitude. A running geological section was taken along the entire route, and frequent vertical sections where the cliffs presented interesting features. And in this region of naked rocks, towering cliffs, and cañon walls, the geologist may read the rock-leafed record as he runs.

From Fort Defiance I sent my train back to Kanab, with the following instructions:

First. To take with them the collections of fossils, rocks, and articles of Indian art left at Oraiby.

Second. On arriving at Kanab, to refit the train; then, if possible, to explore a route from the Kaibab plateau to the Colorado, and from thence to return to Kanab.

Third. Taking on new supplies, to proceed to the south side of the

Sheavwits Mountains, and from thence to explore, if possible, a route south into the Grand Cañon, and return from thence to Kanab.

Fourth. Again taking on supplies, the party was to proceed along the eastern base of the Sevier plateau, pass the headwaters of the Skumppa, Paria, and the Escalanti; and, on reaching any stream to the north of these flowing in an easterly direction, to follow it down to its mouth. It was believed that thus they would discover the mouth of the Dirty Devil, and the result proved the conjecture true.

Fifth. Further instructions were given that a small party of Indians should be taken on each trip, and the Indians of the several regions explored should be collected, and the objects of the expedition explained, presents distributed among them, and, if possible, promises secured that our parties should pass through their country in safety.

This party was under the charge of Mr. Jacob Hamblin, an old mountaineer, who has acquired great influence over the Indians of this region, and speaks their language well. A topographer was sent with him to make maps of the routes traveled.

Having sent my train back, I came on to Fort Wingate, and from thence to Santa Fé; from thence to Denver, and taking the railroad, from thence to Washington, arriving here on the 10th day of January.

On my way down from Salt Lake to Southern Utah I had examined into the feasibility of passing from the valley of the Sevier to Gunnison's Crossing on Green River, and found it was not practicable to transport boats to the last-mentioned point with the funds at my command; and so decided that it would be best to embark boats on Green River at the point where the Union Pacific Railroad crosses it, and descend that river, in order to reach the Colorado with boats.

Before starting west, in August, I engaged the services of Professor A. H. Thompson, as astronomer and chief topographer; and in my absence he procured the instruments and material necessary for work in his department. I also turned over to him the astronomical records and the notes, sketches, and maps of my former expeditions, and he was engaged in working them into shape for future use. He also collected the maps and reports of former Government expeditions to countries adjacent to the region of our exploration, and compiled from them a basis for operations. In this labor he was engaged until April, with the assistance of one draughtsman, who returned with me in January.

On my arrival at Washington, I addressed a letter to the Hon. C. Delano, Secretary of the Interior, asking him to submit to Congress an estimate for an appropriation of twelve thousand dollars for the exploration of the Valley of the Green River. The proposition met with his approval, and at his request the appropriation was made.

In the mean time I had three boats built at Chicago, after a model somewhat different from the boats used in the former exploration.

In the month of March I organized a river party of ten men, and proceeded to Green River Station, on the Pacific Railroad, taking with me instruments, boats, and other supplies deemed necessary.

This party consisted of Professor A. H. Thompson, astronomer and chief topographer, with Captain M. F. Bishop and S. V. Jones as his assistants; John Stuart, assistant geologist; F. S. Dellenbaugh, artist; W. C. Powell, in charge of barometer; E. O. Beaman, photographer; F. C. Richardson, Andrew Hatten, and J. R. Hillers, general assistants.

All the members of the party acted as boatmen while on the river. Professor Thompson was captain of one boat, Mr. Jones of another, and Mr. Beaman had charge of the third. One of the boats had a high seat placed on the middle deck, on which I sat and acted as pilot.

Arriving at Green River Station, our work commenced.

A thorough geological examination of the region in the vicinity was made, with detailed sections, and the collection of fossils, which were found abundant.

An extended series of astronomical observations were made for latitude, and connection by telegraph with Salt Lake City was secured for the determination of the longitude of this point, Professor Thompson going to Salt Lake City to work the line at that point, with Captain Bishop at Green River. The latitude and longitude of Salt Lake City had previously been determined by officers of the Coast Survey, and also by Clarence King, United States geologist for the fortieth parallel. It is believed that the data were collected for the determination of the initial point of the exploration at Green River Station, with a good approximation to accuracy.

Going myself to Salt Lake City, I met Mr. Hamblin there by appointment, who had been in charge of the explorations during the winter. He reported that the collections had been delivered at Kanab; that he had been unable to find a practicable route from the south end of the Kaibab plateau into the Grand Cañon; that he had found a good route from the Sheavwits Mountains to the river, and that the route down the Dirty Devil was barely possible. I then sent him back to Kanab with supplies to be delivered on the river at designated points and times, and in designated quantities.

On the 22d day of May, the party started from Green River Station on the trip down the river. A running section was made of the rocks exposed in the cliffs along its course, vertical sections made from time to time, and fossils collected.

Arriving at the mouth of Henry's Fork, we stopped here for a few days, established an astronomical station, collected the data for a map, and examined with care the geological structure of the country, which we found somewhat intricate, as was also the topography.

We were fortunate in finding fossils of the tertiary, cretaceous, jurassic, and carboniferous formations, and many interesting facts were observed in the geological structure of the northern slope of the Uintah Mountains, which proved of further value to us in the interpretation of the facts subsequently collected.

On the 29th day of May we entered Flaming Gorge, where Green River cuts into the Uintah Mountains, and continued our journey from day to day through Red Cañon. Only one or two hours each day were spent on our boats, the greater part of the time being devoted to scientific work.

On the 8th day of June we arrived at Brown's Park, where we remained a few days establishing an astronomical station, and studying the region, as at the mouth of Henry's Fork. Having finished our work here, we passed down through Brown's Park, and the next day, being the 14th day of June, we entered the cañon of Ladore.

Our way through this cañon was made with much labor, as the river was interrupted by numerous rapids and falls, much obstructed by rocks, compelling us to make many portages; nevertheless we took sufficient time to extend our map to a distance of fifteen miles on either side of the river; to collect data for the determination of the height of the walls, and the more prominent mountain-peaks. Our geological work, too, was carried on in making a running section along the river, and many vertical sections.

On the 19th day of June, we arrived at the mouth of Yampa River. An astronomical station was established here. On the morning after

our arrival, with three men and one boat, I commenced the ascent of Yampa River, with the hope of proceeding as far as the head of Yampa Cañon. It was with much difficulty that we made a slow progress up the stream, having to pole and tow the boat along against a rapid current, and often being obliged to carry it around rocks. In this way we succeeded in reaching the head of the cañon. On our way up the geology of the rocks was examined, and a map made. A day and a half was spent in climbing the adjacent mountain-peaks and making a topographical sketch of the surrounding country.

Embarking again, we descended to our camp at the mouth of the river in about three hours, without toil at the oars, having but to steer our boat and glide past the cliffs. Two more days were occupied in tracing the course of a group of interesting geological folds. During this time our topographical sketches had been extended to a distance of many miles on either side of the river; a quantity of fossils collected, and the structural geology of the country examined.

On the 1st day of July we entered Whirlpool Cañon, and arrived at its foot, in Island Park, on the 5th day of July. The work was carried on through this cañon as in those above. At the lower end of the park an astronomical station was established, and we spent three days in extending our work over the country, as at the stations above. Another group of geological folds was found here, and an interesting collection of cretaceous, jurassic, and carboniferous fossils made.

On the morning of the 8th, with three men, I took one of the boats and pushed on through Split Mountain Cañon, and down the valley below, and on the second night arrived at the mouth of the Uintah, leaving behind a portion of the party to come down as rapidly as they could proceed with the work. The next morning I started, with one man, and walked to the Uintah Indian agency, a distance of thirty-eight miles.

Here a supply of rations had been stored for our party the previous fall, and I came to make arrangements for having them delivered at the river.

On my arrival at the agency, I found a messenger waiting for me, who had been sent by Mr. Hamblin to inform me that it would not be possible to take the rations to the mouth of the Dirty Devil. The cause of this decision was this: The stream along the greater part of its course flows through a cañon so narrow that the water in many places occupies the entire channel, and the walls are so precipitous that a descent to the river cannot be made. The trail followed the winter before made a long detour to the south around this portion of the cañon, along a region of naked rock. During the season of rains, the water falling on these rocks not being absorbed by sands or loose earth, collects rapidly into streams, and rushes in torrents down the steep slopes. Such a stream, having in its course a ledge of rocks over which it falls, will scoop out a deep basin at the foot of the fall, and when the stream runs dry, perhaps in a few hours, the basin will be left full. Now, in the country along this trail no water was found, except in the wells thus formed, and they were full. But during the summer Mr. Hamblin had found the wells dry from evaporation. It should be remembered that the summer of 1870 was unusually dry. This would necessitate a change of plans. Thereupon I sent a messenger to Professor Thompson, with instructions for him to remain at the mouth of the Uintah, and work up the valleys of that river and the White until he should hear again from me.

Obtaining the services of an energetic man, and two good horses, I crossed the mountains to Heber City, and hiring fresh horses proceeded

from thence to Salt Lake City, riding one hundred and eighty miles, scaling the Uintah Mountains, and for much of the way having no trail, and making the trip in three days.

Knowing that by previous arrangement Mr. Hamblin would be in Kanab at that time, I sent him a telegram to come immediately to the city by stage. He arrived in five days. On conferring with him, I decided to return to my party and send it down the river, with instructions to proceed with the work as far as the foot of Gray Cañon, six miles above Gunnison's Crossing.

This accomplished, I left the mouth of the Uintah, taking one man with me. In the mean time Mr. Hamblin had left the city, with instructions to proceed to Cove Creek, a small tributary of the Sevier. It was my intention to join him there, but I desired to examine the geological structure of the plateau to the south of the Uintah Valley, where it merges in the mountains to the west. For this reason I decided not to cross the mountains to the wagon-road leading south, but to proceed along the eastern slope of the Uintah Mountains, crossing the plateau before mentioned, and then, if possible, explore some route across the mountains to the valley of the Sevier. I was successful in carrying out this plan, making a running geological section along the way, and collecting some interesting fossils.

I fell in with bands of Indians; stopped at their camps two or three nights, and induced a small party to travel with me, and so had a fine opportunity to continue my study of the Indian races.

After crossing the plateau, passing the head-waters of the Price River, and reaching the head-waters of the San Rafael, I ascended the mountains to the west. I found them composed of cretaceous and tertiary strata, nearly horizontal, and the summit was a vast and almost level plain. Perhaps this should have been called a plateau rather than a mountain range. I crossed this plateau to the west, and could look over the valleys of the Sevier and Sanpete, and see a dozen beautiful towns with broad fields of waving grain near by, the granary of Utah. Here my Indian friends left me to return to their homes in the valley below. Arriving at Cove Creek and waiting a day, I was joined by Mr. Hamblin.

I then consulted with some mountaineers and with a party of Indians camped near by, and from the information received concluded that it would not be safe, with the limited time, to attempt the descent of the Dirty Devil River by any other route than that explored the previous winter. I then sent Mr. Hamblin to Kanab, with instructions to transport supplies to the mouth of the Escalantis.

I made up a pack-train, purchased a small amount of rations at Gunnison, a Mormon town near by, and set out to meet my party at the foot of Gray Cañon. On my way I was enabled to make a geological section of the western slope of the Wasatch plateau, and another on the eastern side. Two interesting geological folds were crossed before reaching Price River. At that point my train remained in camp for two days, while I ascended the south fork of the river to the foot of the Wasatch plateau and made a running section. Returning to camp, I continued down the Price River, making a section as I went, for a distance of about twenty miles, until I found the cañon so narrow that it was not possible to take the pack-train further in that direction. I then made a detour to the south, discovered the old Gunnison road, and followed it to Green River, and going up the stream to the foot of Gray Cañon, found my boat-party. This was on the 29th day of August.

I found that Professor Thompson had brought the party through in

safety, but not without great labor, as the river was very low—more than forty feet below high-water mark; and at many points, where the rapids were beset with rocks, they had been compelled to make portages. They had made more than a hundred portages along the course of the two cañons, where I had made but three two years before. Notwithstanding this labor, they had accomplished a good amount of scientific work.

Permit me briefly to review it. While I was at Salt Lake City, the professor sent one party up White River to the east, a distance of fifty miles. Captain Bishop, one of the party, sketched the topography of the valley; Mr. Stuart examined the geology, collected fossils, and made a running section. The party descended the river on a raft, locating its meandering time. Professor Thompson made a map of the valley of the Uintah, and a geological section along this river from its mouth to the mountains. He also established an astronomical station, and made an extended series of observations for latitude and longitude.

On his way through the Cañon of Desolation, he carried on the topographical and geological work in the same manner as had been accomplished in the cañons above.

Price River was explored; a geological section made along its course to a point above that to which I descended, as related above. Thus his work overlaps mine.

An astronomical station had been established at the foot of Gray Cañon, and a series of observations made for latitude and longitude.

On the 1st day of September we set out on our journey through Labyrinth Cañon, and reached the mouth of the San Rafael in two days. Here another astronomical station was established. Taking one man, I ascended the San Rafael, and connected the work with the observations made by me at the source of this stream, along the base of the Wasatch plateau. Others of the party were engaged in extending the map and geological work to the east, and their work was carried nearly to Grand River.

Again we started down Labyrinth Cañon, and stopped at its foot one day. Two days more, and we had passed through Stillwater Cañon, and were at the junction of the Grand and Green. Here we established another astronomical station, and gave four days to topographical and geological work. And now our work on Green River was finished. The data collected, supplemented by maps, sketches, geological sections, and astronomical observations, made in my former explorations, will, I believe, enable me to give in my final report a good representation of the geographical features and geological structures of that portion of the valley of the Green south of the Union Pacific Railroad.

On the 19th day of September we started down the Colorado, entering Cataract Cañon. Our progress was slow, for the channel was obstructed by rapids and falls, where we were compelled to make many portages. A great number of lateral cañons enter into the principal one; each one of these has its system of side cañons. All this makes the topography very intricate. The geological structure seemed also at first very obscure. The rocks were tilted at various angles, and in almost every conceivable direction; yet, on careful examination, it was found that this apparent confusion could be unraveled. First, it was observed that the dip of the rock was in a direction away from the cañon on either side, along its entire tortuous course. On passing up the lateral cañons, the rocks were found to dip from these on either side; and passing up into their side cañons, still the rocks dipped into the cliffs, and away from the gorge. And this rule for the dip was every-

where observed. We made a plot on a topographical sketch showing the direction of these tilts; and with this and many other facts collected, I have confidence in the belief that in my concluding report I shall be able to make clear the character of the phenomena and explain the cause. We reached the mouth of the Dirty Devil on the 30th day of September.

Three days were given to work in this vicinity, and an astronomical station established. One of our boats was carried into a cave and filled with sand, as we wished to leave it here for future use. Failing to get a supply of rations at this point, it would be necessary to proceed to Escalanti Creek in a shorter time than would be required to carry on our work according to the plan by which it had been accomplished above.

We proceeded down the river, stopping only to make a map of the same, and a running section, until we reached the point mentioned above, where we found Mr. Hamblin with our supplies.

Our arrival was none too early, as we had scarcely two days' rations left in the boats. Here I left for Salt Lake City.

Professor Thompson again took charge of the party, established an astronomical station, carried the work over the adjacent country, continued down to the mouth of the Paria, carrying on the scientific work according to the original plan. He established another astronomical station here, and extended his work over the surrounding region as far as practicable.

In the mean time the pack-train had gone to Kanab; there taking on supplies, returned to the river, and met the party at the mouth of the Paria. From thence Professor Thompson went to Kanab with the party and train.

My trip to Salt Lake City was for the purpose of procuring additional supplies and instruments.

I arrived at Kanab, in return, on the 29th day of November. In furtherance of plans previously made, Professor Thompson was examining the country for the purpose of locating a base-line. I joined him in this work, in which we were engaged two weeks. The members of the party were variously employed during this time. The ground for the base-line having been determined, we made preparations for its measurement, but were delayed by three weeks of cloudy nights before the necessary observations could be taken to determine the meridian direction.

In the mean time, parties were at work erecting monuments on such conspicuous points as were selected for geodetic stations. As soon as the direction of the line was determined, the measurement began. Leaving this in charge of one of his assistants, he commenced the observations for triangulation. The latitudes of the extremities of the base-line were determined by astronomical observations. There is a telegraph-office at the north end of the line, connecting with Salt Lake City, and by the use of this the longitude can be determined with a good approximation to accuracy. This was left for some future time, on account of the ill health of one of the assistants. During the greater part of this time I was occupied in the study of the Ute language, and other matters of ethnological interest. I also made a trip to the Kanab plateau, for geological purposes, and explored the cañons of the Kanab. A running section was made from the mouth of the Kanab to its source in the Sevier plateau; another from the Kanab to the Kaibab; and still another from the Kaibab west to Virgin River, at a point opposite Saint George.

Allow me to make a summary statement of the work which has been accomplished.

The region has been traversed from north to south for a distance along the river of six hundred and forty miles. At various points the region to the west of this line has been crossed to the base of the mountains and plateaus that form the western rim. The country to the east of the river has been carefully explored to a distance of ten to twenty-five miles, and at White River to a distance of fifty miles, and on the northern rim of the basin of the Little Colorado to the town of Oraiby, one hundred and twenty-five miles. From the mouth of the Little Colorado the course of the river is in a direction to the west for a distance of three hundred miles, when it turns again to the south, near the mouth of Virgin River. The Sevier plateau lies from sixty to one hundred miles north of this portion of the stream, and is cut with a labyrinth of deep cañons. Along four lines we have descended to the Colorado, and a system of triangles extended over this country from a base-line at Kanab, and the party is engaged now in tracing the topography.

On all the region north of Paria River the base for the topographical work has been the meandering line of the river, composed, necessarily, of units of estimated distances, corrected by astronomical determinations of latitude and longitude—a method not entirely accurate, yet the only one practicable with the funds at my command. A tri-daily record of barometrical observations has been made in the trip down the river, and altitudes have been measured by comparative differences in barometrical readings, and high-water mark on the river taken as the base, so that all the altitudes are related to the river. The constantly varying height of the river above the sea can be approximately determined by the series of observations first mentioned, combined with the series made by me during the former exploration.

Several hourly series, of eight days' continuance each, have been made at important points along the route. At various points in the region explored the ruins of ancient communal houses were discovered. These houses were built for the accommodation of from fifty to two hundred persons each; the material of stone and mortar. Houses like these were used by the Aztecs, in the valley of Mexico, and similar houses are now used in the "Province of Tusayan," in Northeastern Arizona. The location of these towns of a single house will be shown on the map. In some of the ruins fragments of pottery, articles of basket-work, stone implements, and other relics were found. Etchings on the rocks, many of them believed to be records in hieroglyphics, were found, and drawings made of the same.

Vocabularies were made of the Shoshone language, the Navajo, the Oraiby, the Uintah, Ute, and the Pah-Ute. Materials were collected for a grammar and dictionary of the last-mentioned language.

There has also been collected much material for the illustration of the domestic life, habits and customs, songs and mythology, of the Utes. Large collections of articles of Indian art have been made.

The extent and character of such valleys as may be redeemed by irrigation have been noted. The forests, mainly situated on the plateaus, have been examined, and their location and extent will be given in my final report. Much mineral coal has been discovered, and care taken in the examination of the same. The locality and extent of these beds will also be given. Other deposits of mineral have been discovered, but not thoroughly examined.

Such, in part, is the result of labors already performed.

The various collections made, during the exploration, of fossils, minerals, and works of Indian art, have been shipped to the Smithsonian Institution from Salt Lake City, and will doubtless arrive in due time.

When the party has finished tracing the topography of that region over which the system of triangulation has been extended, Professor Thompson will repair to the mouth of the Dirty Devil, and four members of the party, taking the boat left there, will proceed down the river, and complete the work as far as the mouth of the Paria. There I expect to join them for the exploration of the Grand Cañon.

Of the appropriation of twelve thousand dollars last made by Congress, there yet remains in my hands a little more than two thousand dollars. This will be sufficient to complete the exploration of the Grand Cañon.

To the Chicago, Burlington and Missouri, the Chicago, Alton and Saint Louis, the Chicago and Northwestern, the Union Pacific and Kansas Pacific Railroads I am indebted for very great favors. The officers of these roads have given me transportation for men and material. But for this assistance it would not have been possible to make the explorations with the amount appropriated by Congress. I am pleased thus to bear testimony to the liberality of these gentlemen, and to their interest in scientific exploration, and feel flattered by the confidence they have given me. I have been engaged for five years in the exploration of this region, and during this time these railroads have contributed nearly as great an amount as the General Government to the accomplishment of the work, in the form of passes and free freight-bills.

The operations of the two years are so intimately connected that it would not be possible to convey a clear idea of what has been done, with the reasons for the same, without combining the several statements in one report. I have therefore deemed it wise so to do, and will transmit a duplicate of the above to the Hon. C. Delano, Secretary of the Interior.

I would respectfully ask your attention to the propriety of continuing the work in this interesting country. First, in extending the system of triangulation over the upper portion of the valley of the Virgin, the Sevier plateau, and the district lying between the Paria and the Dirty Devil. This can be done from the base already established, and at the same time trace the topography and examine the geology of the country. Second, to establish a base-line in the valley of the Sevier, and extend like work over this and the valley of the Sanpete, over the Wasatch plateau, and the streams running east into the Colorado and Green Rivers, and connecting on the north with the surveys made by Clarence King along the 40th parallel. This would enable us to fill up the interspaces in our past explorations, extend them over a region of country forming a part of the same great basin of drainage, and complement the geological work done. The knowledge of the country obtained in the past would greatly facilitate this. The party in the field could at once proceed with the work without loss of time, and the train and instruments now in use could be employed without further expense. By slightly increasing the party, the whole could be finished in one year.

I estimate that an appropriation of twenty thousand dollars would be sufficient for this purpose.

Invoking your careful consideration of this matter, and such action as you may deem wise, I am, with great respect, your obedient servant,

J. W. POWELL.

Professor JOSEPH HENRY,
Secretary of the Smithsonian Institution,
Washington, D. C.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 174.

DR. JOHN E. HOUARD.

APRIL 8, 1872.—Referred to the Committee on Foreign Affairs with leave to report, at any time, and ordered to be printed.

Mr. RANDALL, on leave, introduced the following

RESOLUTION:

Whereas, from information now in the possession of this House, it appears that Louis Houard, the father of Dr. John Emilio Houard, was born in France, in 1795, was duly naturalized, according to law, as a citizen of the United States, in 1803, and continued to reside in the city of Philadelphia until 1822, when he (the father) went to Cuba with his family. During his stay in Philadelphia, on the 5th day of September, 1815, the said John Emilio Houard was born, and about the age of seven years was taken by his father to live at Cienfuegos, Cuba. While there the said father was engaged in what was known as American business. He died in 1828. The son was educated in the United States and graduated at the Jefferson Medical College, in said city, in the year 1844, after which he returned to Cuba to practice his profession, and was there examined and permitted to practice medicine as a foreign physician; was always recognized as an American citizen, and always claimed such citizenship, and was given a certificate by the Cuban or Spanish authorities in strict accord therewith. That in 1868 or early in 1869 he, on the breaking out of political troubles on the island, applied to Mr. Charles Fox, then American consul at Cienfuegos, to be enrolled, and certificate was issued to him by Mr. H. M. Morris on November 25, 1870, as an American citizen. Dr. Houard never did renounce his nationality of birth and never did accept the Spanish nationality.

And whereas it further appears that in December, 1870, the said Dr. Houard was arrested, and, after a year's confinement in a prison, was tried and convicted of giving aid and comfort to the so called insurgent cause on said island against the Spanish authorities; that he was tried by a military court-martial, found guilty on testimony since fully acknowledged to have been untrue, and the evidence of a willful and designedly perjured man. He was then sentenced to transportation to a Spanish penal colony, on the west coast of Africa, for a term of eight years, and all his property confiscated. It further appears that, since his arrest and imprisonment, the treatment he has been subjected to was brutal and cruel, and in violation of the modes of modern warfare as now recognized by all civilized governments: Therefore,

Be it resolved, That in the judgment of this House the said John Emilio Houard was, and is, a citizen of the United States by birth and continued and uninterrupted choice, and as such is entitled to all and every protection from this Government, and, in the opinion of this House, the President should promptly demand his unconditional release and the return of his property confiscated to him as legal owner, and further demand full reparation and apology for such indignity and outrage committed on a citizen of the United States by the Spanish authorities in Cuba.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 175.

NAVIGATION OF SAINT CROIX RIVER.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

ASKING

For the protection of the navigation of the Saint Croix River and the improvements thereof.

APRIL 8, 1872.—Referred to the Committee on Commerce and ordered to be printed.

The memorial of the legislature of the State of Wisconsin respectfully shows—

That the Saint Croix River bordering the States of Wisconsin and Minnesota is navigable for steamboats, flat-boats, barges, and rafts, from its junction with the Mississippi River to the Falls of Saint Croix, in the county of Polk, in said State of Wisconsin.

That a company has been incorporated by the legislature of Minnesota, commonly known as the "Stillwater Boom Company," which claims, by virtue of its charter, granted by the said State of Minnesota, to maintain and keep up booms, shear-booms, piling and piers, that seriously obstruct and retard the navigation of said river for steamboats, flat-boats, barges, and rafts, during the season of navigation, at times causing a complete blockade of the channel of said river, when the free and unobstructed passage of steamboats, barges, flats, and rafts is of great importance to the public.

You are therefore most respectfully memorialized to authorize an investigation in the premises, and to enact such laws as will enforce the right of the aggrieved parties.

And you are further memorialized to make an appropriation for the improvement of the navigation on said river by removing obstructions from the steamboat channel, and such other needed improvements as shall be deemed necessary by government engineers.

DANIEL HALL,
Speaker of the Assembly.
M. H. PETTIT,
President of the Senate.

Approved March 23, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 176.

BANDS OF ROVING INDIANS.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

ASKING

The removal of certain bands of roving Indians to their western reservations.

APRIL 8, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of the legislature of the State of Wisconsin respectfully represents—

That there are now, and for many years have been, roving bands of Winnebago, Pottawatomie, and other bands of mixed tribes of Indians in the western counties of the State of Wisconsin; that they are troublesome, and in many cases have committed crimes against the peace and dignity of our State. The cranberry crop is of great importance. A large number of marshes are brought up and improved; but the Indians trespass upon them, steal the berries, and frequently burn the marshes, which destroys the crop for two years. They burn our pine and other forests, destroying timber and other property, amounting in gross value to an immense sum. Indians have been arrested for murder and committed to jail, and in numerous cases the whisky traders have broken the jails and set them free. Two or three of them are now in our State prison under sentence for crimes committed. Congress has heretofore been memorialized on this subject, and at one time made an appropriation of $35,000 for the purpose of removing them to their reservations, but it was entirely inadequate, and was suffered to lapse. The people have shown great patience and forbearance with them, but have now cause to be very impatient for their removal.

Wherefore your memorialists would earnestly pray that those roving bands of Indians be removed to their western reservations, and the citizens of Wisconsin, who have been troubled with their depredations in many cases for thirty years, be immediately relieved from further trouble on their account.

DANIEL HALL,
Speaker of the Assembly.
CHAS. G. WILLIAMS,
President of the Senate pro tem.

Approved March 25, 1872.

C. C. WASHBURN, *Governor.*

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 177.

ASYLUM FOR ORPHANS OF DECEASED SOLDIERS.

MEMORIAL

OF

THE LEGISLATURE OF WISCONSIN,

ASKING

For authority to the board of managers of the National Asylum for Disabled Soldiers to transfer a parcel of ground to the State of Wisconsin for the uses of an asylum for the orphans of deceased soldiers.

APRIL 8, 1872.—Referred to the Committee on Public Buildings and Grounds and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the legislature of the State of Wisconsin respectfully represents—

First. That near the close of the late war "The Wisconsin Soldiers' Home" was organized and conducted by the women of the State of Wisconsin, and, with a fund of something like one hundred and fifty thousand dollars, which was raised entirely by voluntary efforts of the people of that State, undertook to provide, 1st, for the temporary care and comfort of Union soldiers of all States passing through Wisconsin; and, 2d, for the permanent care of all Wisconsin soldiers disabled in the war. Both these objects were effectually accomplished by that institution up to the time of the establishment by Congress of the National Asylum for Disabled Volunteer Soldiers.

Second. In the mean time the State of Wisconsin established, and has hitherto supported entirely at its own expense, another asylum for infant children of deceased soldiers of Wisconsin, which has now over two hundred children under its care, to be nurtured, educated, and fitted for usefulness in life, while there are many more for whom room should be provided. Both the building and ground occupied by this children's asylum are entirely inadequate to its needs. The grounds are too small to admit of cultivation, even of a garden, or to admit of such additions to the buildings as are necessary for the comfort and care of so large a number of children.

Third. When the National Asylum for Disabled Volunteer Soldiers was established, the "Wisconsin Soldiers' Home" turned over the remainder of its funds and property, which exceeded one hundred thou-

sand dollars in amount, and more than four-fifths of which was paid over in money, as a free gift to the national board.

A small part of the property so turned over consisted of a tract of about twenty-five acres of land near the suburbs of the city of Milwaukee, which was purchased at $12,000 by the Wisconsin Soldiers' Home, as a site for its contemplated building.

This piece of land is now held by the national board, but forms no part of the asylum grounds, and is at a great distance from the same. It has cost that board nothing; it is simply open farming land, without buildings, except a small tenant-house of trifling cost. It probably does not bring income enough to pay the taxes upon it. It is in no way necessary to the use of the National Asylum, and does not increase its revenues. It would be a very convenient and suitable site for the Wisconsin Asylum for Infant Children of Deceased Soldiers.

The National Asylum has splendid grounds of about four hundred acres in extent, near Milwaukee, purchased entirely by funds contributed by the people of Wisconsin.

Your memorialists would therefore ask that the national board be authorized to convey said parcel of land of about twenty-five acres to the State of Wisconsin, for the site of the Asylum for Children of Deceased Soldiers, and, when no longer needed for that use, then for the site of such other charity as the legislature of the State shall approve.

DANIEL HALL,
Speaker of the Assembly.
CHAS. G. WILLIAMS,
President of the Senate pro tem.

Approved March 25, 1872.

C. C. WASHBURN,
Governor.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 178.

CHURCH AND SCHOOL-BUILDING IN SANTA FÉ.

[To accompany H. Res. 130.]

MEMORIAL

ON THE SUBJECT OF

A CHURCH AND SCHOOL-BUILDING

IN

Santa Fé.

APRIL 8, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the undersigned, respectfully represent to your honorable bodies that they are endeavoring, with the assistance of the Right Rev. George M. Randall, bishop of Colorado and New Mexico, to build a church and school-building in the city of Santa Fé, Territory of New Mexico, to be known as "Saint Thomas's Church," of the Protestant Episcopal Church of the United States of America; that not having suitable building sites, and it being impossible to obtain them in an eligible position in said city; that owing to the bright prospect of the success of the said church with a little valuable assistance now in its infancy, your memorialists most respectfully pray your honorable bodies to grant and set apart for the use and benefit of the said Church of Saint Thomas a certain lot or portion of land, situated south of the southeast corner of the military reservation at Fort Marcy, in the city of Santa Fé aforesaid, one hundred feet in width from north to south, running through from east to west from Washington to Lincoln avenues; the said lot being a small portion of the land now belonging to and set apart by the Government for the use of the civil authorities of the Territory of New Mexico, and in the rear of the governor's mansion and other public buildings, which will more fully appear upon reference to chart herewith forwarded.

Said lot is entirely unoccupied, and between it and the present Government buildings, which cover a large space of ground, there is ample space for much larger buildings.

Confiding in the liberality of your honorable bodies, and with the sincere hope that the object of this memorial will receive the attention

the cause of Christianity so justly deserves, your memorialists will ever pray, &c.

JOHN CORNELL,
Rector Saint Thomas Church.
F. BRIDGMAN, U. S. A.,
Senior Warden.
GORDON GRANGER, U. S. A.,
Junior Warden.
Q. L. JOHNSON,
Vestryman.
WM. W. GRIFFIN,
Vestryman.
J. P. WILLARD, U. S. A.,
Vestryman.
S. E. JONES,
Vestryman.
T. F. CONNWAY,
Vestryman.
A. B. CAREY,
Paymaster, U. S. A.
FRED. MYERS,
Deputy Quartermaster General.
C. T. ALEXANDER,
Surgeon, U. S. A.
J. F. SEYMOUR.
J. B. M. POTTER,
Paymaster, U. S. A.
J. G. RALEN,
Chief Justice.
WM. BREEDEN,
Clerk Supreme Court.
L. B. ELKINS,
Late United States Attorney.
M. A. BREEDEN.
T. RUSH SPENCER,
U. S. Surveyor General, N. M.
DAV. J. MILLER.
WM. WHITE.
A. P. SULLIVAN,
Postmaster.
WILLI SPIEGELBERG.
S. SELIGMAN.
JACOB BRUMMEET.
E. ANDREWS.
ELDRIDGE W. LITTLE,
United States Depositary, &c.
A. STAUB.
G. A. SMITH,
Collector.
W. ROSENTHALL,
Deputy United States Marshal.
I. HOUGHTON.
H. WETTER,
Secretary New Mexico.
T. B. WHEELOCK,
Assistant Cashier First National Bank.
T. B. CATRON,
Attorney General for New Mexico.
W. H. NASH,
Captain, Com. Sub., U. S. A.
W. F. M. ARNY,
Chairman Territorial Republican Committee, and late Superintendent of Public Buildings of New Mexico.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 179.

DISABILITIES IN WEST VIRGINIA.

RESOLUTIONS

OF THE

CONSTITUTIONAL CONVENTION OF WEST VIRGINIA,

RECOMMENDING

That all political disabilities growing out of the late civil war shall cease in West Virginia.

APRIL 8, 1872.—Referred to the Committee on the Judiciary and ordered to be printed.

STATE OF WEST VIRGINIA,
CONSTITUTIONAL CONVENTION,
Charleston, March 30, 1872.

Mr. Willey offered the following resolutions:

Resolved, That in the opinion of this convention, without distinction of parties, the time has come when it would be wise and judicious that all political disabilities growing out of the late civil war should cease in West Virginia; and our Senators and Representatives in the Congress of the United States are hereby requested to use their influence in securing the passage of an act of Congress removing all such disabilities.

Resolved, That copies of the foregoing resolution, with the ayes and noes recorded on the vote thereon, be transmitted by the president of the convention to our Senators and Representatives in Congress, to be laid before the House to which they respectively belong.

The ayes and noes were ordered and taken, on motion of Mr. Smith, but the announcement of the result of the vote was postponed for the present.

MONDAY, *April* 1, 1872.

The president proceeded to announce the result of the vote on the foregoing resolutions, as follows:

AYES—Messrs. Arnett, Atkinson, Bassel, Bee, Boggs, Brown, Byrnside, Byrne, Campbell, Calfee, Core, Crim, Cushing, Davenport, Dickenson, Farnsworth, Faulkner, Ferguson, Ferrell, Fitzhugh, Gallaher, Hagans, Haymond, Hall, Harding, Haynes, Hoge, Holt, Jackson of Wood, Jackson of Lewis, Johnson of Wood, Johnson of Tyler, Kantner,

Knight, Leonard, Lurty, Martin, Maslin, Mathews, Miller, Moffett, McCleary, McCreery, Osburn, Pannell, Park, Pate, Peerce, Pendleton, Pipes, Prince, Pugh, Randolph, Robinson, Roberts, Smith, Snider, Staton, Strickler, Stump, Thornburg, Thompson, Travers, Waggenor, Ward, Warth, Wheat, Willey, Wilson, Woods, and Mr. President—71.

NOES—None.

Therefore the resolutions were adopted.

Copy from the journal.

Teste:

G. J. BUTCHER,
Secretary.

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 180.

ALABAMA CLAIMS AND INDIRECT DAMAGES.

APRIL 9, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

Mr. PETERS, on leave, introduced the following

RESOLUTION:

Whereas in the case presented on the part of the Government of the United States to the tribunal of arbitration, constituted under Article 1 of the treaty concluded at Washington on the 8th May, 1871, between the United States and Great Britain, the tribunal of arbitration is asked, on behalf of the United States, to award to them the payment by Great Britain of the claims therein specified, viz: 1st. For *direct* losses growing out of the destruction of vessels and their cargoes by the insurgent cruisers therein referred to, and by the national expenditures in the pursuit of those cruisers. 2d. For the *indirect* injury in the transfer of a large part of the American commercial marine to the British flag, in the enhanced payments of insurance, in the prolongation of the war, and in the addition of a large sum to the cost of the war and the suppression of the rebellion.

And whereas it appears from the protocol of May 3, 1871, that in the conference of the Joint High Commission relating to the Alabama claims, on the 8th of March, 1871, the American commissioners stated the nature of the demands of the United States as above specified, and, after giving an approximate estimate of the amount of the said *direct* losses, added that "in the hope of an *amicable settlement*, no estimate was made of the *indirect* losses, without prejudice, however, to the right of indemnification on their account in the event of no such settlement being made."

And whereas the American commissioners at the same time proposed that the Joint High Commission should agree upon a sum which should be paid by Great Britain to the United States, in satisfaction of all the claims, and the interest thereon, which proposition the British commissioners declined, denying all liability, but proposing to leave the question to arbitration, which proposition was accepted.

And whereas the said treaty providing for such arbitration contains the following declaration: "The United States of America and her Britannic Majesty, being desirous to provide for an *amicable settlement* of all causes of difference between the two countries, have, for that purpose, appointed their respective plenipotentiaries," who agreed to and concluded the articles of the said treaty.

And whereas by the said treaty, after reciting that differences had arisen between the Government of the United States and the government of her Britannic Majesty, and still existed, growing out of the acts committed by the several vessels, which have given rise to the claims generically known as the Alabama claims, it is agreed that the said

claims shall be referred to the decision of arbitrators as therein mentioned. And certain rules were laid down in the said treaty, defining the obligations of neutral governments; and by Article 7 it is provided as follows: "The said tribunal shall first determine as to *each vessel separately*, whether Great Britain has, by any act or omission, failed to fulfill any of the duties set forth in the foregoing three rules, or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact *as to each of the said vessels.* In case the tribunal find that Great Britain has failed to fulfill any duty or duties, as aforesaid, *it may, if it think proper, proceed to award a sum in gross*, to be paid by Great Britain to the United States for all the claims referred to it." And it is further provided, by Article 10, as follows: "In case the tribunal find that Great Britain has failed to fulfill any duty or duties, as aforesaid, and does not award a sum in gross, the high contracting parties agree that a board of assessors shall be appointed to ascertain and determine *what claims are valid*, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure *as to each vessel*, according to the extent of such liability, as decided by the arbitrators."

And whereas it appears that the damages to be ascertained, either by the arbitrators under Article 7, or by the assessors under Article 10, are the same in their nature and character; in both cases it being provided that the arbitrators may award a sum in gross for the claims for or on account of *all* the vessels, and in case of their failure to do so, that the assessors shall make out an *account of the liability as to each vessel*, according to the extent of such liability, as decided by the arbitrators.

And whereas it is evident that the parties to the treaty did not intend that the assessors should determine the question of indirect damages, ascertain the amount, and attempt to apportion it among the several vessels, charging on account of the liability as to each a proportion of the damages, for "the transfer of a large part of the American commercial marine to the British flag," the prolongation of the war, &c., as such an apportionment would be unreasonable and impracticable.

And whereas, in the said case prepared on the part of the Government of the United States, the proposition is advanced that a neutral is bound to use active vigilance and all the other means in its power to prevent its citizens from doing any of the acts referred to in the rules laid down in Article 6 of said treaty, that by "due diligence" is meant "a diligence which prompts the neutral to the *most energetic measures to discover any purpose of doing the acts forbidden*," and that the neutral, in case of negligence in this respect, is liable for all the direct and indirect losses and injuries which may be sustained by a belligerent by reason or in consequence thereof.

And whereas the said doctrines which the United States are thus made to assume by the action of their legal representatives would impose upon this country new and onerous obligations in respect to the action of American citizens sympathizing with oppressed races grappling with tyranny and with nations fighting for independence, and such doctrines are repugnant to the institutions and traditions of the American people, who have always sympathized even for the humblest of the human family when struggling for liberty.

And whereas instead of increasing the stringency of the obligations of neutrals recognized by the existing law of nations, the highest interests of civilization demand that the liberties and rights of neutrals

shall be extended, and the privileges and powers of states at war diminished:

Resolved, That it is the opinion of this House that the said claims for indirect damages should be held and considered to be waived by the said recited intimation of the American commissioners—that they would be waived in case of an amicable settlement of the matters in dispute—it being clear that a settlement of those matters by and under the award of the said tribunal of arbitration will be an amicable settlement thereof; and that the said claims for indirect damages are incompatible with the terms and provisions of the said treaty; and that the propositions contended for in the said case, in respect to the obligations of neutrals as above recited, are unsound and incompatible with American precedents and the genius of our institutions.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 181.

PRIVATE LAND-CLAIMS IN NEW MEXICO.

APRIL 8, 1872.—Ordered to be printed.

Mr. MERCUR, from the Committee on Private Land Claims, introduced the following

PAPERS:

Transcript of private land-claim No. 50, known as the Cañada de los Apaches grant, made to Antonio Sedillo, April 20, 1769, and approved by the surveyor general of New Mexico, June 15, 1871.

UNITED STATES OF AMERICA,
Territory of New Mexico:

To General T. RUSH SPENCER, *Surveyor General of New Mexico:*

Your petitioner, Felipe Chavez, for himself and as agent for the heirs and legal representatives of Antonio Sedillo, deceased, respectfully represents that in the year seventeen hundred and sixty-nine, one Antonio Sedillo petitioned to his excellency Pedro Fermin de Mendenueta, of the order of Santiago, colonel of the royal army, governor and captain general of the province of New Mexico, for a grant of land situated upon the west bank of the Rio Puerco, in what is now known as the counties of Bernalillo and Valencia, in the Territory of New Mexico, setting forth in his said petition that the grant of land solicited was a portion of the same land which had formerly been granted to himself and others, and upon which they had lived four years, and that it had then been abandoned three years, owing to the great risk and the small force for a defense on such a frontier; that the land petitioned for by him was situated at the end of said former grant and called "La Cañada de los Apaches;" stating the boundaries thereto, and also stating that if at any time the said former grant should become settled, he should put no obstacle to their enjoying it if they did not prejudice him in the possession of his part, which he so humbly asks for, and which he claims on account of having no land of his own where to maintain his large family, and because he was a poor man and had rendered service for more than twenty years in the royal army as a private soldier, as a corporal, as a sergeant, and on many occasions as a commanding judge, and at that date serving as chief alcalde of the neighboring pueblos of Acoma, Laguna, and Zuña; that the said governor and captain general, after considering said petition, did, on the 20th day of April of said year decree as follows: At the city of Santa Fé, on the 20th day of April, in the year 1769, the above petition was presented by the petitioner, and in consideration of his services and for other reasons which he sets forth, I, I. Pedro Fermin de Mendinueta, of the order of Santiago, colonel of the royal army, governor and captain general of this province of New Mexico, declared that in the name of His Majesty the King, conceded and do concede as a grant to Antonio Sedillo the tract

of land he asks for, with the boundaries he mentions, and under the conditions in his petition contained, and also that he settle the tract in the terms and forms prescribed by the royal laws. And said grant I make to him, his children, and heirs, and successors, under the corresponding conditions; and I confer all necessary legal authority to Carlos Mirabal to proceed after summoning the adjoining settlers, and, if no contradiction is raised by a legitimate party, to put the said Antonio Sedillo in possession of the tract of land aforesaid in the accustomed manner, and making a duplicate of the whole, he shall deliver it to the aforementioned Sedillo, that it may serve him as a sufficient title, &c.

It appears from the title-papers, now filed in this case, that they are the same identical original papers executed to said Antonio Sedillo at that time, as will fully appear in proof, by a comparison of the signatures of said governor and captain general subscribed upon the original title-papers of grants to land in files Nos. 581, 582, 583, 584, and 791, now in the office of the surveyor general of New Mexico, and which title-papers were taken from the ancient territorial archives where they were found at the time of the acquisition of said territory by the United States Government, and which are recognized and known to be genuine original title-papers.

Your petitioner further states that the said grant of land was settled and occupied by said Antonio Sedillo, in conformity with the laws, usages, and customs of Spain and the requirements of said decree; that he erected buildings upon the same, and that it has been in successive occupation of said Sedillo, his heirs and legal representatives, from the date of the grant to the present time, with the exception of such times as was beyond the power of the settlers to remain in occupation thereof, without sacrificing their lives to the hostile frontier Indian tribes; and as a proof of these statements your petitioner respectfully refers to the testimony adduced in the claim No. 93, reported from your office in November, 1870, regarding the settlement, occupation, and subsequent abandonment of the land-grant known as the San Blas and San Fernando or Rio Puerco grant, which tract of land is situated immediately to the north and adjoining the lands of said Sedillo, which evidence, given by aged persons yet living who were born and raised in said settlements, fully proved the occupancy and improvement of the same and the neighboring settlements until they became untenable by reason of frequent attacks from said Indians, and even to the present day that section of country is at times known to be unsafe and untenable from the same causes; that as a proof that said Antonio Sedillo was placed in full and complete possession of said grant of lands under the decree of said governor and captain general, is evidenced in instruments of writing made and certified to by Carlos José Peres de Mirabal, upon whom was conferred full authority to give full and complete possession of the same. It is therein stated that in obedience to the said decree, he, the said Mirabal, on the 25th day of the month of April, in the year 1769, proceeded to the tract granted, and, with attending witnesses, placed said Antonio Sedillo in royal possession of the same, after summoning the adjoining settlers, as also the Navajo Apache Indians, who saw the petition and declared it did not injure or conflict with their possessions; and he, the said Mirabal, seeing that no other person claimed a right to the property granted, placed the said Antonio Sedillo in possession in the name of His Majesty the King, and which he received as a royal and true grant with its boundaries on the east the Rio Puerco; on the west the point of a table land which runs in said direction and which comes out of said Cañada de los Apaches; on the north the grant of the Rio Puerco, and

on the south the boundary of Mateo Pino; that said act of possession is written upon the same sheet of paper containing said petition and decree, and bears the same evidence of great age with them. A further proof of the genuineness of these title-papers is also found upon the records made under what is known as the "Kearney code of laws," established for the Territory of New Mexico at the time of the acquisition of the same by the United States, and reference is made to pages 14 and 15, in book B of records in the custody of your office, for a full and complete record of these title-papers under the provision of said laws.

Your petitioner further states that said land-grant was never surveyed, and that it is impossible for him to state the actual number of leagues and acres contained within the boundaries of the same, but that from a personal knowledge of the well-known and visible land-marks to the boundaries stated in the act of possession aforementioned, an approximate estimate of its extent places its width from east to west at about four leagues, and its length from north to south at about six leagues, containing an area of about twenty-four square leagues Spanish measure, and which title-deeds and stated land-marks and boundaries have heretofore been recognized and respected by the former Spanish and Mexican governments, as also by the neighboring settlers, as the grant and possessions of Antonio Sedillo; that the map accompanying this petition and original title-papers represents as accurately as can be determined the lines of said grant in connection with the township-lines of the public surveys of the United States. Your petitioner relying upon the historical fact that the land comprehended in this grant, at its date, was within the unquestioned dominions of the Crown of Spain, and that the governor and captain general of this province, at that time, had full power and authority under the laws of Spain to make the grant; that the title-papers to the same are regular in form and made by the proper officer, shows *prima-facie* evidence that it was a legal act and within the power of said governor and captain general to make it, and he now submits the papers in this case for your consideration and action in the premises, and prays for your approval of the same as a perfect grant, with your recommendation that Congress confirms the same to the legal representatives of Antonio Sedillo, deceased.

FELIPE CHAVEZ,
For the heirs and legal representatives of Antonio Sedillo, deceased,
By JOHN GWYN, JR., and
H. HILGERT,
Attorneys.

AÑO DE 1769.

Merced de tierras hecha a Antonio Sedillo.

Sr. Gr. y Cappn. General, Antio. Sedillo, sarjento reformado de este real precidio, postrado con la devida veneracion qe. devo ante la grandesa de V. S., paresco en la mejor forma que en derecho aiga lugar; diciendo Sr. que entienpo qe. governo este reino el Sr. Dn. Franco. Antto. Marin del Valle, presentamos escrito entre yo i otros vecinos pidiendo un citio de tieras el cual llaman Los Quelites, el que se nos concedio de mersed, i tuvimos poblado cuatro as. el que ba para tres qe. se despoblo por el mucho riesgo qe. en el ai, i ser pocas las fuersas para semijant frontera. Por lo que atendiende al catolico selo de V. S. me postro rendido ante su real patrocirmio pidiendo me conseda V. S. un pedaso

de tiera que en el remate de medidas del espresado citio tengo rejistrado, que llaman la Cañada de los Apaches. Ciendo sus linderos por el oriente un sero que llaman el Sero Colorado donde remata el lindero de los de Atrisco; por el poniente la punta de una mesa qe corre para el d'ho viento qe. sale de la espresada cañada; por el norte con la mersed de los pobladores del Rio Puerco, por el sur con el lindero de Don Mateo Pino. Esto espero del christianicimo selo de V. S., pues ci en algun tiempo se llegare a poblar d'ho paraje no pondre ningun obste para que gozen de ello, no perjudecandome a mi en lo de mi parte que tan rendidamente pido; pues este es motivado a no tener un pedaso de tiera propia endonde poderme mantener con tan crecida familia como me allo, i ser un hombre pobre, pues me ocupado en el real servicio veinte i tantos as. de soldado raso, de cavo i de sarjento i de juez comandante en varias ocaciones i en la auctualidad de alcalde maior de los pueblos de Acoma, Laguna, Suñi. Por todo lo cual A. V. S. pido i suplico sea mui servido atenderme i mirarme con la miseracion qe. acostunbra, i proveerme este mi escrito qe. de ello resevere vien i merced. Jurando con la solemidad devida no ser de malicia i en lo nesesario, &c.

ANT'IO SEDILLO.

En esta villa de Sta. Fé, en veinte dias del mes de Abril de mil setecientos sesenta y nueve años, se presento la antecedente peticion, por el contenido en ella y en su vista atento a sus servicios y demas rasones que expone yo Dn. Pedro Fermin de Mendinueta, del orden de Santiago, coronel de los reales egercitos, govor. y capn. genl. de este reino del Nuevo Mexico, dije: que en nombre de su magd. (que Dios guarde) concedia y concedo de merced a Antonio Sedillo el sitio de tierras que pide bajo los linderos que nomina, y de las condiciones en su pedimento contenidas, y con la de poblar dho. sitio en el termino y forma que previenen las reales leyes, y de no venderlo a persona eclesiastica, y sin perjuicio de tercero que mejor dro. tenga; y dicha merced se la hago para el, sus hijos y herederos y sucesores, bajo las correspondientes condiciones. Y doi comision bastante quanta por dro. es necesario a Dn. Carlos Mirabal para que, precediendo citacion de los colindantes y no resultando contradiccion de lejitima parte, ponga en posesion del enunciado sitio de tierras al ya dho. Antonio Sedillo en la forma acostumbrada y segundo testimonio de todo selo, entregara al mencionado Sedillo para que le sirva de bastante titulo, y devolvera los orijinales para colocarlos endonde corresponde. Y asi lo prohebi, mande, y firme el enunciado govo. y capn. general con los yntraescriptos testigos de mi assistencia, a falta de escribanos que no los a y en esta governacion de clase alguna; de que doi fee.

PEDRO FERM'N DE MENDINUETA.

MATEO DE PEÑAREDONDA.
ANTONIO MORETO.

En este paraje de Santa Cruz de Guadalupe, jurisdicion de la villa de Albuquerque, en veinte i cinco dias del mes de Abril del presente año de mil setecientos sesenta y nueve as. parecio presente ante mi Dn. Carlos José Perez de Mirabal, el Cappn. Antonio Sedillo, con la mersed de tieras dada por el Sr. Dn. Pedro Fermin de Mendinueta, cavallero del orden de Santiago, coronel de los rs. exercitos, gr., y cappn. general de este reino castellano de sus rs. fuersas i precidios; en atencion a lo que su señoria provee i manda pase al citio ia mencionado, en compania de dos testigos de acistencia qe. lo son el Cappn. Baltasar Baca y Manuel Tores, a dar la posecion real con la citacion de los colindantes, aci de Atrisco como del

Rio Puerco, quienes vieron el pedimento i proveido; qe. lo fueron Manuel Vaca, José Chavez, y el teniente autual Juan Bautista Montaño, como tanbien los Apaches Navajoes quienes dixeron que estava vien lo pedido, i que no tenian qe. pedir contra la posecion que se hiva a dar; i viendo que no avia quien tuviera derecho a ello, cojé de la mano al espresado Sedillo, lo pasee, aranco sacate, tiro piedras, i todos dijimos Biva el rei mi señor; donde le di posecion en nombre de su magestad, qe. Ds. guarde, la que recivio real i verdadera, con sus linderos, por el oriente el Rio Puerco; por el poniente, la punta de una mesa qe. core para dho. viento qe. sale de la dha. Cañada de los Apaches; por el norte con la mersed del Rio Puerco; por el sur con el lindero de Dn. Mateo Pino. Y para que conste lo firmo con los ia referidos testigos de mi acis e ncia, en dl o dia, mes i año, a falta de escrivano real o publico qe. no lo ai en este reino; de que doi fee.

CARLOS JPH. PEREZ DE MIRABAL.

Te: BALTASAR BACA.
Tetio.: MANUEL TORES.

YEAR OF 1769.

To his excellency the governor and captain general, I, Antonio Sedillo, a reformed sergeant of this presidio, humbly appear with due veneration before your greatness, in the best form in which I am permitted to do, and say to you, sir, that at the time when this kingdom was governed by his excellency Francisco Antonio Marin de Valle, I and other neighbors of mine presented a petition asking a grant of lands called "Los Quelites," which was granted and given to us, and which we inhabited for four years, and it is now near three years since the same was abandoned on account of the great risk and the small forces we had for such a frontier. I therefore apply to the Catholic zeal of your excellency, and humbly kneel down before your royal patronage, asking that your excellency concede to me a tract of land, which at the end of the aforementioned land grant I have registered, and which is called La Cañada de los Apaches. Its boundaries on the east is a hill called Serro Colorado, which is the boundary of those of Atrisco; on the west the point of a table-land, which runs in said direction, and which comes out of the said Cañada; on the north the grant of the settlers of Rio Puerco; on the south the boundary of Mateo Pino. This I expect from the Christian zeal of your excellency, and if at any time the said place should become settled, I shall put no obstacle to their enjoying it, if they do not prejudice me in the possession of my part, which I so humbly ask for, and which I claim on account of having no land of my own where to maintain my large family, and because I am a poor man, and have been for over twenty years in the royal service, as a private soldier, as a corporal, as a sergeant, and on various occasions as a commanding judge, and at present as chief alcalde of the pueblos of Acoma, Laguna, and Zuñi, for all of which I pray your excellency to be pleased to direct your attention to me, and to favor me with your accustomed kindness, and to grant my petition, whereby I will receive benefit and grace. I declare with due solemnity that it is not from malice, and as may be necessary.

ANTONIO SEDILLO.

At the city of Santa Fé, on the 20th day of the month of April, one thousand seven hundred and sixty-nine, the above petition was presented by the petitioner, and in consideration of his services, and for

other reasons which he sets forth, I, Pedro Fermin de Mendinueta, of the order of Santiago, colonel of the royal army, governor, and captain-general of this province of New Mexico, declared, that in the name of His Majesty (whom God protect) conceded, and do concede, as a grant to Antonio Sedillo, the tract of land he asks for, with the boundaries he mentions, and under the conditions in his petition contained; and also that he settle the tract in the terms and forms prescribed by the royal laws; and further that he do not sell the same to any ecclesiastical party, and without prejudice to any third party having a better right; and said grant I make to him, his children, and heirs and successors, under the corresponding conditions, and confer all necessary legal authority to Carlos Mirabal, to proceed after summoning the adjoining settlers, and, if no contradiction is raised by a legitimate party, to put said Antonio Sedillo in possession of the tract of land aforesaid, in the accustomed manner, and, making a duplicate of the whole, he shall deliver it to the aforementioned Sedillo that it may serve him as a sufficient title, and he shall return the originals that they may be filed where they belong, and thus I, said governor and captain-general, provided, ordered, and signed, and with the undersigned attending witnesses, there being no notary of any kind in this jurisdiction, to which I certify.

PEDRO FERMIN DE MENDINUETA.

MATHEO DE PEÑAREDONDA.
ANTONIO MORETO.

At this place of Santa Cruz de Guadalupe, jurisdiction of the city of Albuquerque, on the 25th day of the month of April of the present year, one thousand seven hundred and sixty-nine, appeared before me, Corlos José Peres de Mirabal, Captain Antonio Sedillo, with the grant of lands given by His Excellency Pedro Fermin de Mendinueta, knight of the order of Santiago, colonel of the royal armies, governor and captain general of this province, castellan of its royal forces and garrison. In consideration of what his excellency provides and commands, I proceeded to the aforementioned tract, accompanied by two attending witnesses, these being Captain Baltasar Baca and Manuel Torres, to give royal possession, summoning the adjoining settlers of Atrisco, as well as those of the Rio Puerco, who saw the petition and decree, viz: Manuel Vaca, Jose Chaves, and the present Lieutenant Juan Bautista Montaño, as also the Navajo Apaches, who said that the petition was good, and that they had nothing to interpose against the possession about to be given, and, seeing that no person had a right to it, I took the aforementioned Sedillo by the hand, led him around; he pulled up grass, threw stones, and all of us shouted long live my lord, the King, when I gave him possession in the name of His Majesty, whom God preserve, which he received as a royal and true grant, with its boundaries on the east, the Puerco River on the west, the point of a table land which runs in the said direction, and which comes out of said Cañada de los Apaches on the north, the grant of the Rio Puerco on the south, the boundary of Mateo Pino; and in testimony whereof I sign this, together with the aforementioned witnesses of my attendance, on said day, month, and year for the want of a royal or public notary, there being none in this province, to which I certify.

CARLOS JOSÉ PEREZ DE MIRABAL.

Witness: BALTASAR BACA.
Witness: MANUEL TORRES.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, John Gwyn, of the city of Santa Fé, in the said county and Territory, upon my oath, state that the foregoing transcript contains a full, true, and correct translation of the original title, papers to Antonia Sedillo, in the Spanish language, to the best of my knowledge and belief.

JOHN GWYN.

Subscribed and sworn to before me this 6th day of April, A. D. 1871.

[SEAL.] M. A. BREEDEN,

Deputy Clerk United States District Court,
First Judicial District, New Mexico.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, June 8, 1871.

The foregoing translation, upon comparison with the original in Spanish, being found correct, the same is hereby adopted.

DAVID J. MILLER, *Translator.*

ANTONIO SEDILLO.

This claim was filed for investigation in this office April 6, and set for trial May 3, 1871.

It appears from the title papers filed in the case that in the month of April, 1769, Antonio Sedillo petitioned the governor and captain general of the province of New Mexico, then one of the ultramarine possessions of the Spanish government, for a tract of land situated in the present county of Bernalillo, known as the Cañada de los Apaches, the boundaries of which tract he stated in his petition as—on the north, the grant to the settlers of the Rio Puerco; on the east a red hill; on the south, the boundary of the land of Mateo Pino; and on the west, the point of a mesa extending out of the said cañada.

The petitioner states that he, in conjunction with sundry other individuals, had formerly applied for and obtained a grant for a certain tract of land known as the Quelites, adjoining the tract now in question, which Quelites tract the grantees had occupied four years, but which nearly three years before they abandoned on account of the exposed and dangerous frontier position of the place, and he declares that in the event of the Quelites tract being again occupied he would interpose no claim, but would allow the settlers so far as he was concerned freely to enjoy the land, provided they did not molest him in the possession he then applied for, should the same be granted him, basing his claim to a grant for the land on the circumstance that he had long and faithfully served the state in civil and military employments, had a large family, and was destitute of land for their support.

On the 20th of the same month and year the Spanish governor and captain general of the province, acknowledging the truth and justice of Sedillo's petition, decreed to him and his children and his successors a grant in fee for the tract of land prayed for, with the boundaries, and under the conditions stated and proposed by the grantee in his application, and under the further condition that he settle the land within the term prescribed by law, and never sell the same into mortmain, authorizing and directing the commissioner, by him then specially appointed for the purpose, to place the grantee in formal legal possession of the land so granted.

On the 25th of the same month the commissioner, as appears from his certificate of that date, in virtue and pursuance of the governor and

captain general's decree of the 20th, proceeded to the tract granted, and having summoned the adjoining settlers, and each of these having declared to him he had no objection to the execution of the grant, thereupon formally placed the said Antonio Sedillo in full possession, with the ceremonies customary under the Spanish law and usage in such cases, stating in the act of possession the boundaries of the tract as follows: On the east, the Puerco River; on the west, the point of a mesa extending westwardly out of the Cañada de los Apaches; on the north, the land of the people of the Rio Puerco, and on the south, the land of Mateo Pino, embracing probably an area of about twenty-four square leagues, or one hundred and six thousand two hundred and seventy-two acres of land.

The title papers in this case are the originals, being the petition of the grantee, Antonio Sedillo, the decree thereon of Governor and Captain General Pedro Fermin de Mendinueta, and the act of possession executed by Commissioner Carlos José Perez de Mirabal, the whole appearing on a single sheet of paper. The official signatures the document bears purport to be originals, and from a comparison of them with others by the same men, found among our old archives, they are believed to be genuine.

There has been made known to the surveyor general no opposition to the recognition and confirmation of this claim. The land in question, it is notorious, is at present, and has for many years back, if not interruptedly since the date of the grant, been in the occupation of the grantee and those claiming under him.

The claim in this case, to wit, for the land embraced within the natural boundaries above stated, is believed and held to be a good and genuine one under the laws, usages, and customs of the Spanish and Mexican governments, and under the treaty of Guadalupe Hidalgo, wherefore the same is hereby approved as such, and transmitted with the papers in the case for the action of Congress in the premises.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, June 15, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 6, 1871.

The foregoing transcript contains true copies of the papers on file in this office, constituting private land-claim approved as No. 50 by the surveyor general June 15, 1871.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim No. 51, *under grant to Nerio Antonio Montoya of November* 12, 1831; *approved by the surveyor general of Mexico June* 20, 1871.

To the surveyor general of New Mexico, Hon. T. Rush Spencer:

Your petitioner, J. Francisco Chaves, a citizen of the United States, and a resident of the county of Valencia, in said Territory, most respectfully begs to represent that he is the legal representative of Nerio Antonio Montolla, who, on the 28th day of February, A. D. 1831, (in conformity to the colonization laws of the Republic of Mexico,) peti-

tioned the constitutional council of the corporation of Tomé, in said Territory, to grant to him and his heirs a tract of land which is now situate in the county of Valencia, of said Territory, and known as the Ojo del Medio grant, for reasons set forth in his said petition. The constitutional council of the corporation of Tomé took action upon said petition on the 19th day of March, A. D. 1831; and recommended that the territorial deputation act favorably upon said petition, and grant to said petitioner his request. The territorial deputation acted upon said petition, and report upon the 12th day of November, A. D. 1831, and commanded by decree, then issued, that the said grant be made to said Nerio Antonio Montolla, and that the alcalde of the jurisdiction where said lands was situated proceed to place Nerio Antonio Montolla in possession of said grant.

A copy of the petition made by Nerio Antonio Montolla, the proceedings of the constitutional council of the corporation of Tomé, the proceedings and decree of the territorial deputation, the alcalde's document, the act of possession, the conveyance by which claimant derives title, and a translated and certified copy of all these documents, as also a plat of said tract of land, are hereby annexed herewith and made a part of this petition. The metes and bounds of said grant of land are: On the east, the Apache Rancheria; on the west, the Central Spring; on the north, the highest part of the cañon mountain ridge, the same at which the spring is situated, and on the south, to commencement of the little valley of the Cuerbo, up to a spring situated therein, commonly called the Cuerbo Spring.

Claimant represents that he has a perfect title to said grant; that he knows of no adverse title thereto, and believes none exists, as it would have been filed had there one existed; this claim having been filed by Henry Connelly on the 19th day of December, A. D. 1863, and numbered eighty-seven. Grantee and legal representatives up to present claimant have been in the quiet, peaceful, and continuous possession of said grant up to the present time. Said grant is supposed to contain about

This claim is now presented for approbation, under the provisions of the act of Congress approved on the 22d day of July, A. D. 1854.

J. FRANCISCO CHAVES,
By J. BONIFACIO CHAVES,
Attorney for Claimant.

Muy Ylustre Ayuntamto. de Tomé:

El c. Nerio Antonio Montoya, vecino del puesto de Valencia, ante V. S., con el mas profundo respecto, paresco y digo: Que hallandome en dicho puesto de Valencia reducido solamente a la rama que corresponde a mi esposa sin saber qual pueda tocarle por estar el referido sitio encomunado y sin esperansas de que aunque sea repartido haya de tocarme una parte concederable, conque pueda acudir a la precisa subsistencia de una crecida familia que me rodea, respecto de ser corto y muchos los poseidores vajo esta su pocicion, me veo en la imperiosa nesecidad de manifestarlo a V. S. para que tenga la dignacion de tomar en consideracion esta mi situacion, y por un efecto de su notoria bondad tenerla igualmte. de poner a continuacion su informe a la Exma. Diputacion para que S. E. en vista de este y de lo que expongo pueda dictaminar, si lo tuviere a bien, el que se me posecione desde el ojo de en medio hasta la rancheria que den para el ambito, como de media legua, por todo el cañon, distante una de la merced del Manzano, cullo sitio baldio y a mi concepto sin perjuicio de los havitantes de la comprehencion de esta jurisdicion, por lo que respecta a pasteos y aguas de sus ganados, causa

la incomodidad del cañon en que se haya el mencionado sitio, y la cantidad de agua que encierra; y util solamente a una corta siembra a la que unicamente me intereso, y de la que lla berifique el año passado, la que sin embargo de no aberla podido acistir completamente por la larga distancia, no dejo de aleviarme su corto producto. Por todo lo cual a V. S., humilde y sumicamte. pido y suplico sea muy servido de hacer como solicito; que en ello recivire gracia y justicia. Juro no proceder de malicia y en lo necesario, &c. Ba en este papel comun por no haver en esta jurisdicion del sello que corresponde. Quedando con obligacion de agregar el aspiado.

NERIO ANTO. MONTOLLA.

VALENCIA, *Febrero* 28 *de*, 1831.

Ynforme del Alluntamiento.

Tomé, Marzo 19 de 1831.—Convencido este r. alluntamiento de las poderosas razones que el suplicante ce pone, y el ningun perjuicio que resulta, antes si bastante beneficio al interes y aumento de la agricultura, pone su ynstancia a la exma. diputacion territorial quien como facultada puede acceder a la donacion del terreno que pide dho. suplicante, sin perjuicio de pastos y abrebaderos para los trancetantes.

JUAN BACA.

MIGUEL DE OLONA,
Rejidor Secretario.

Decreto de la Exma. Diputacion, (Quaderno 1º *Fo.* 2.)

SANTA FÉ, 12 *Nove. de*, 1831.

Su E. la diputacion de este terro., instruido del ynforme que a continuacion de esta ynstancia da el alluntamto. constitucional de Tomé, ha resuelto en secion de hoy se done el terreno que solicita el impetrante, preveniendo al alc'e. de dha. juricsdicion forme el correspondente documento que asegure al agraciado en la merced que por este se le concede.

ABREU, *Secreto.*

Documto. del Alce.

El c. Miguel de Olona, segundo rejidor de esta r. alluntamto. de Toméy alcalde actual de la misma jurisdicion &a: En cumplimiento de lo decretado por la exma. diputacion de este terro., con f'ha. 12 de Nbre del año corriento al margen de la instancia que, con f'ha 28 de Febrero, presento à este r. alluntam'to el c. Nerio Antonio Montoya, vecino de esta misma jurisdicion, en culla instancia consta el ynforme queda esta alluntamto. por el qual à benido S. E. en agraciar con su solicitud à Montoya, consediendole plena y formal posecion del sitio que solicita en la banda opuesta de la sierra que es el ojo de en medio, y desde este hasta la rancheria que es la solicitud de el agraciado, y para que le sirba de titulo y à cer constar su propiedad en el espresado terreno, yo el nominado alcalde, con arreglo à lo dispuesto por S. E., y por la facultad que me es conferida por la ley, estiendo el presente documento actuando con testigos de asistencia por falta de todo escribano, que no lo hay segun derecho, y en este papel comun por la notaria falta del sellado; quedando obligado el agraciado á agregar el del sello que corresponde, quedando á el mismo tiempo en este archibo la instancia original de Montoya, como tambien puede el espresado Montoya el dia que guste y tenga à bien abisarme para pasar con el á posecionarle en la propiedad que se le concede con todas las formalidades que son de estilo, para que con libre poderio pueda gozar por si, sus hijos y subseso-

res el terreno q'e en nombre de la soberania se le concede; y para toda constancia lo firme y otorgué en siete dias del mes de Dbre de mil ochocientos treinta y uno, con los de mi asistencia, como dicho es; de que doy fee.

MIGUEL DE OLONA.

Assa.: ISIDRO SAMORA.
Assa.: ANTONIO BARELA.

Pocesion.

En dose dias del mes de Dbre de mil ochocientos treinta y una, llo, el segundo rijidor de este r. alluntamiento y alcalde actual de esta jurisdicion de Tomé, en vista de lo prevenido por la exma. diputacion de este terro. y con el abiso que tube del c. Nerio Antonio Montoya, pase con en al sitio que se le dona, y estando en el y no resultando perjuicio alguno le señale al espresado Montoya los linderos siguientes: Por el oriente la rancheria que llaman de los Apaches; por el poniente el ojo de en medio; por el norte lo alto del monte de la cuchilla del cañon mismo adonde esta el ojo, y por el sur el nacimiento de la Cañada del Cuerbo hasta un ojo que esta en la misma cañada que comunmente llaman el Ojo del Cuerboy; le adverti las condiciones espresas en el ynforme, en quanto à pastos y abrebaderos para los trancitantes, mandandole al mismo tiempo poner seis mojoneras firmes y citables, y entendido de todo lo coji de la mano y lo pasie por dicho terreno, aranco sacate, tiro piedras à los cuatro bientos, gritando por una y tres veses, Biba la soberania, en señal de berdadera posecion pacifica sin contradicion. Y para que asi conste lo firme, yo dicho rejidor y alcalde actual, con los de mi assistencia como dicho es; de que doy fee.

MIGUEL DE OLONA.

Assa.: JUAN JOSÉ DE MADARIAGA.
Assa.: ANTO. BARELA.

En los Corrales, condado de Bernalio, a los dos dias del mes de Octubre de 1848, ante mi, Fernando Aragon alce. del mencionado condado, comparecieron Dn. Nerio Montoya, vico. del condado de Balencia y Dn. Juan Perea, vecino de Bernalio, y estando presentes dijo el primero qe. traspasa todo su derecho y poderillo de este documento en el mencionado Perea y su hermana Da. Dolores Perea pa. qe. desde luego queden estos señores haciend el legal huso de este derecho como propios ullo qe es con mas huna huerta con cuatrosientos setenta y cuatro mates de huba; tres piezas de abitacion de palo; ochenta y seis arboles frutales de durasno y mansano; la tapia qe. resguarda la huerta; con dro. de q. si se derrota pueden fomentala de sus estramuros; tambien el documento y dro. de la asequia con qe le riega dha huerta; dies y nuebe frascos aguardiente; una aucion qe. tiene comprada a Manl. Sedio en el sitio de las Peraltas, los tres cuartos mencionados los dá con el solar y choreras correspondientes, y dice el otorgante qe. todo le presente en este documento lo esede a estos señores por la cantidad de cuatro mil quinientos ochenta y una cabesas de ganado menor de qe. les hera deudor, y otros picos qe. por efectos de tienda tambien debia; con cuya cantidad se an dado por pagados y satisfechos de la mencionada cantidad. Aci lo an otorgodo por auto y sertifico el presente, con los testigos de acist'a; de todo doy fee.

FERNANDO ARAGON, *Alcalde.*
NERIO ANO. MONTOYA.

De acista.: MARIO S. VERGARA.
De acissta.: JUAN VIJIL.

GEFATA. POLITICA DE NUEVO MEJIÇO.

Por el oficio de V. f ha. 20 del corriente me he impuesto haver V. cumplido con el decreto de la exma. diputacion en que pocesiona de un terreno al C. Nerio Antonio Montoya y pero con respecto a la consulta que V. me hace sobre cuantos deven de ser sus dros. digo que lo ignoro, y que puede V. si acaso gusta dirigir esa consulta al sor azesor que es el que en tales casos deve consultar á los juezes de 1ª instancia.

Dios y libertad, Sante Fé, 22 de Decre. de 1831.

JOSÉ ANTO. CHAVES.

Sor. Regor. D. MIGUEL OLONA.

To the honorable the corporation of Tomé:

I, citizen Nerio Antonio Montoya, resident of the town of Valencia, appear with the greatest respect before your honorable body and state: that finding myself at the said place, Valencia, with only the family relations of my wife, and not knowing what may fall to her share, the said tract of land being owned among them, and having no confidence that, even should the same be divided out, any considerable portion would come to me on which to depend for the support of the large family by which I am surrounded, the land being small in quantity and the holders being numerous, under this apprehension I find myself under the imperious necessity of applying to your honorable body, that you be pleased to take this, my situation, in consideration, and that actuated by your well-known generosity you may further manifest the same by appending hereto your report to the most excellent deputation, so that that body, in view thereof and of what I myself represent, may, should it deem proper to do so, direct that I be placed in possession from the central spring to the Rancheria, about half a league in area along the cañon, and distant about one league from the Manzano grant, which tract is uncultivated, and, in my opinion, the grant would not be injurious to the inhabitants within this jurisdiction in regard to pasturing and water for their live-stock, owing to the barrenness of the cañon in which the said tract lies and the quantity of water it contains, and it is valuable only for cultivation on a small scale, for which purpose only I desire it, I having planted there last year, and the crop, though I could not tend it well, owing to the great distance, did not fail to relieve me with its limited production. For all which reasons I humbly and submissively ask and pray your honorable body to be pleased to do for me as I request, for I shall thereby receive favor and justice. I declare not to act in dissimulation, and whatever is necessary, &c.

This is written on this common paper, there being no paper of the proper stamp in this jurisdiction; the obligation to attach it remaining upon me.

Valencia, February 28, 1831.

NERIO ANTONIO MONTOLLA.

Report of the corporation council.

TOMÉ, *March* 19, 1831.

This honorable council being convinced by the strong reasons set forth by the petitioner, and no injury resulting, but rather considerable advantage to the interests and the encouragement of agriculture, his petition will go before the most excellent territorial deputation, which, as the authority competent, may accede to the donation of the land prayed for by the said petitioner without injuring the pastures and watering places for the passers-by.

JUAN BACA.

MIGUEL DE OLONA,
Member and Secretary.

Decree of the most excellent deputation, Book I, folio 2.

SANTA FÉ, *November* 12, 1831.

The honorable the deputation of this territory having received the report of the constitutional council of Tomé, appended to this petition, has resolved in this day's session to grant the land prayed for by the petitioner, charging the alcalde of said jurisdiction to execute the document that will secure the grantee in the grant hereby made to him.

ABREU, *Secretary.*

Alcalde's document.

The citizen Miguel de Olona, second alderman of this honorable council of Tomé, and present alcalde of the same jurisdiction, &c.

In obedience to the decree of the most excellent deputation of this territory, made under date of November 12 of the current year, on the margin of the petition which, under date of February 28, the citizen Nerio Antonio Montoya, resident of this said jurisdiction, presented to this honorable council, and on which petition is recorded the report made by this council, in accordance with which report its excellency has deemed proper to accede to the petition of Montoya, granting him full and formal possession of the tract he prayed for on the opposite side of the mountain at the Central Spring, and from the latter to the Rancheria, which is according to the petition of the grantee; and in order to execute title to and secure to him as his own property the said land, I, the said alcalde, in pursuance of the order of its excellency, and by virtue of the power conferred on me by law, do execute to him this document, acting with attending witnesses for want of a notary, there being none such as the law requires, and on this common paper on account of the well-known lack of stamped paper, the grantee standing obligated to attach the proper revenue stamp, Montoya's original petition remaining in the mean time among the archives of this office; and the said Montoya, whenever he may choose or think best to do so, may notify me to proceed with him to the locality to place him in possession of the property granted him, with all the customary formality, to the end that with full control he may enjoy for himself, his children, and successors, the land which in the name of the nation is granted to him.

And for full security I signed and executed this on the seventh day of the month of December, one thousand eight hundred and thirty-one, with my attending witnesses as aforesaid; to all of which I certify.

MIGUEL DE OLONA.

Attending: ISIDRO SAMORA.
Attending: ANTONIO BARELA.

Possession.

On the twelfth day of the month of December, one thousand eight hundred and thirty-one, I, second alderman of this honorable council and present alcalde of this jurisdiction of Tomé, in compliance with the provision made by the most excellent deputation of this territory, and the notification given me by the citizen Nerio Antonio Montoya, proceeded with him to the tract of land granted to him, and standing thereupon, and no injury whatever resulting, I designated to the said Montoya the following boundaries: On the east, the so-called Apache Rancheria; on the west, the Central Spring; on the north, the highest part of the Cañon Mountain ridge, the same at which the spring is situated; and on the south, the commencement of the little valley of the

Cuerbo up to a spring situated therein commonly called the Cuerbo Spring; and I notified him of the conditions expressed in the report relative to pastures and watering-places for the use of passers-by, directing him at the same time to establish firm and permanent landmarks; and in confirmation of the whole, I took him by the hand and led him over said land, and he plucked up grass, cast stones toward the four cardinal points, shouting aloud, "Blessed be the nation!" once and thrice, in sign of true, peaceable, and unopposed possession.

And that it may so appear, I, said alderman and present alcalde, signed this document, with my attending witnesses, as aforesaid; to which I certify.

MIGUEL DE OLONA.

Attending: JUAN JOSIÉ DE MADARIAGA.
Attending: ANTONIO BARELA.

At Corrales, county of Bernalillo, on the 2d day of the month of October, 1848, before me, Fernando Aragon, alcalde of the said county, appeared Nerio Montoya, resident of the county of Valencia, and Juan Perea, resident of Bernalillo, and both being present, the former declared that he conveys all his right in and control over this document to the said Perea and his sister, Dolores Perea, to the end that henceforth they may be the proprietors thereof, making legal use of this title as their own property, which it is, together with a lot of land [huerta] containing four hundred and seventy-four grape-vines, three rooms, built of wood, for dwellings, eighty-six peach and apple fruit-trees, and the wall surrounding the grape-patch, with the privilege that should it fall down, they may rebuild it from the adjoining ground; also the document and right to the acequia irrigating said patch, nineteen jars [frascos] of brandy, a land claim [aucion] the vendor has purchased from Manuel Sedio at the place Las Peraltas, and the three rooms aforesaid he conveys, together with the lot and the eaves-drippings [chorreras] belonging thereto, and the vendor declares that all that is mentioned in this instrument he conveys [esede] to the said vendees for four thousand five hundred and eighty-one head of sheep and goats, [ganado menor,] for which, as well also as for some merchandise, he was in debt to them, for which property [cantidad] the said vendees acknowledge themselves paid and satisfied the said indebtedness.

Thus have the parties contracted before [me,] and I certify thereto with attending witnesses; to all of which I certify.

FERNANDO ARAGON, *Alcalde.*
NERIO ANTONIO MONTOYA.

Attending: MARCOS S. VERGARA.
Attending: JUAN BIJIL.

OFFICE OF THE POLITICAL CHIEF OF NEW MEXICO.

By your official communication of the 20th instant, I am advised of your having executed the decree of the most excellent deputation, granting to the citizen Nerio Antonio Montoya a tract of land.

But in regard to the inquiry you make of me as to how much your fee should be, I inform you that I am ignorant in the premises, and that you may, if you choose to do so, put the question to the assessor, [asesor] who is the officer to whom it belongs to advise the justices of first instance in such cases.

God and liberty. Santa Fé, December 22, 1831.

JOSÉ ANTONIO CHAVES.

To Alderman MIGUEL OLONA.

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 19, 1863.

The foregoing eight pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,
Translator.

NERIO ANTONIO MONTOYA.

This private land claim, No. 87, was filed in this office by Henry Connelly, and on the 20th of June, 1871, J. Bonifacio Chaves, as attorney for the present claimants, had the case called up before the surveyor general for his investigation and decision.

The title papers filed in the case, all embraced in a single document, consist of—

1. Copy of the petition of Nerio Antonio Montoya, dated February 28, 1831, to the ayuntamiento or corporation of Tomé, applying for a certain tract of land, about half a league in area, distant about one league from the Manzano grant, and asking a favorable report to the territorial deputation on his petition.

2. Copy of the reference dated March 19, by the ayuntamiento to the territorial deputation of the petition, with the recommendation that the grant applied for be made "without injuring the pastures and watering places for the passers-by."

3. Copy of the official statement, dated November 12, of the secretary of the territorial deputation, certifying that the deputation had on that day made the grant according to the petition and the recommendation it bore of the ayuntamiento, and had directed the alcalde of the jurisdiction of Tomé to place the grantee in possession of the land.

4. Copy of the certificate of the alcalde of Tomé, dated December 7, that the grant had been made to the petitioner Montoya by the deputation and statement of his readiness to execute the act of possession as authorized and directed by the deputation whenever the grantee should call on him to that end.

5. Copy of the act of possession, dated December 12, executed by the said alcalde, setting forth the following as the boundaries of the tract: On the east the Apache Rancheria, on the west the Central Spring, on the north the highest part of the Cañon Mountain ridge, and on the south up the Cuervo Valley to the Cuervo Spring.

6. An original deed of conveyance from said Nerio A. Montoya to Juan Perea and Dolores Perea for this land, together with certain other property, dated October 2, 1848.

7. An original communication from the political chief to the alcalde of Tomé, on the subject of the latter's fees for his services in executing the act of possession under the grant.

The tract in question is situated in the present county of Valencia, in this territory, and embraces, according to the plat furnished the surveyor general, about two thousand acres of land, or about two hundred and fourteen acres less than the half league originally estimated and applied for.

The fact of this grant is corroborated and established by the recorded proceedings of the session of November 12, 1831, of the territorial deputation of New Mexico, the original journal of the body for the year 1831 being on file among the old archives in this office, which journal, so far as important in connection with this claim, reads as follows: "A petition of the citizen Nerio Antonio Montoya, a resident of Valencia, pray-

ing for a donation for a tract of unoccupied and uncultivated arable land at the Manzano, within the limits of the Central Spring and the Rancheria, was taken up, and having considered the report of the respectable ayuntamiento of Tomé that there was no objection to the grant for the said tract, it was ordered that the same be made."

The grant in this case appears, therefore, to be absolute and perfect, wherefore the claim is held to be a good and valid one against the public domain of the United States under the laws, usages, and customs of Mexico and the treaty of Guadalupe Hidalgo, and the same is hereby approved as such, and the papers in the case transmitted for the action of the Congress of the United States, with the recommendation that the grant be confirmed to the grantee Nerio Antonio Montoya or his legal representatives.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, June 20, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 6, 1871.

The foregoing transcript contains true copies of the papers on file in this office, constituting private land claim approved as No. 51 by the surveyor general June 20, 1871.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land claim No. 52, *under grant to Roque Lovato, September* 23, 1785, *approved by the surveyor general of New Mexico, July* 8, 1871.

SANTA FÉ, NEW MEXICO, *April* 11, 1871.

To General T. Rush Spencer, surveyor general of New Mexico:

Your petitioner, Gaspar Ortiz y Alarid, for himself and for the heirs and legal representatives of Roque Lovato, deceased, respectfully represents that in the year 1785, when this territory was a province of New Spain, one Roque Lovato, an *attache* to the royal army at this city of Santa Fé, petitioned to his Excellency Juan Bautista de Anza, colonel of the royal army of His Majesty and civil and military governor of this province of New Mexico, for a piece of the public land in the suburbs of this city, on the north, for the purpose of building upon, cultivating, and inhabiting the same with his family, and asking to be placed in possession thereof without prejudice to any third person; that said governor, after considering said petition, did, on the 23d day of the month of September, in the year 1785, decree as follows: "The foregoing petition was presented by the party therein contained, (Roque Lovato,) which document I recognized and admitted, and in consideration of his prayer I have made, and do make, to the said Roque Lovato, in the name of his Majesty, whom may God preserve, the grant he asks for, without injury to any third party, and on the condition that he cultivate the land he refers to, in compliance with the requirements of the royal laws; and, for the purpose of giving him royal and personal possession, I commission and confer all necessary legal authority upon Second Lieutenant José Maldonado, to the end that, in virtue of this commission, and summoning the adjoining proprietors, and there resulting no injury to any other person, he may execute the same, measuring off the number of

varas called for on each course, and also placing permanent landmarks, which the petitioner will have to erect." The same decree also recites that this grant shall be entered in the government book, after the whole proceeding is concluded, and that he, the said governor, signed with his attending witnesses, for the lack of a public or royal notary, there being none in all this jurisdiction, and also transcribed the same upon common paper, for the want of the stamped, which he legalized as such stamped paper of the third seal, to which he certifies over his own signature and that of his said attending witnesses. These proceedings appear regular in form and in accordance with the established laws, customs, forms, and regulations of the Spanish government at that time; the action of Lieutenant José Maldonado, in obedience to the order contained in the decree aforesaid, is also evidenced in part in the notice given by him to the adjoining proprietors of the land petitioned for at Santa Fé on the 25th day of said month of September, 1785, to come forward on the succeeding day, and state whether there is any objection in the matter of the grant applied for by the petitioner, Roque Lovato; and it appearing in the transcript attached to these same documents that said Lieutenant Maldonado did, on the 26th of said month, in said year, proceed, with attending witnesses, to the tract of land registered by Roque Lovato, for the purpose of placing him in full royal possession of the same; and although the important part of said act of possession is now lost or destroyed, as will appear by affidavit of Gaspar Ortiz y Alarid in Exhibit A, herewith accompanying, the fact is notorious in this community that said Roque Lovato built houses upon and occupied the lands granted, and that the same has been in continuous and uninterrupted possession of said Lovato and his successors ever since the grant was made, the boundaries thereto being—on the east, some black hills; on the west, the main road running out of this city (Santa Fé) for the Rio Arriba country; on the north, the main ridge which divides the waters of the Rio Tesuque from the waters running into the rio de Santa Fé; on the south, the road running along the north boundary of the Muralla; lying and being in the northern suburbs of the city of Santa Fé, Territory of New Mexico; that the map herewith accompanying these original papers is a mere approximate location of said lands; no actual survey of the same ever having been made, it is impossible to state the exact number of acres contained in said grant, but the width of the same is believed to be about two miles from east to west, and three miles in length from north to south, containing an area of about six square miles, and about thirty-eight hundred and forty acres of land; that the accompanying conveyance of said lands by Josefa Armijo, the widow of said Roque Lovato, dated October 18, 1795, shows conclusively the boundaries to the same as recognized under the Spanish government at that date. Your petitioner firmly believes that a record was made in the proper book, in compliance with the decree of the governor aforesaid, but that said book of records cannot now be found, and is believed to have been long since lost or destroyed from the old archives. Your petitioner respectfully submits the original papers in this case with the accompanying proofs, above referred to, and asks that a day may be fixed upon for taking further evidence in the same, with a view of securing a recognition, approval, and confirmation of said grant by the Government of the United States in favor of the legal representatives of Roque Lovato, deceased.

GASPAR ORTIZ Y ALARID,
By JOHN GUYN, JR.,
Attorney.

Sr. Coronel Gobernador y Capitan General deste rreino Don Juan Bautista de Anza:

Roque Tobato, harmero deste rreal presidio de Santa Fé, hante usia paresco en la mexor forma qe. halla lugar, i al mio conbenga y digo: Señor, qe. por quanto me hallo sin un pedaso de tierra para poder bibir y fabricar casa y cultibar tierras para la mantension de mi familia, tengo rrexistrado un pedaso de tierra rrealenga en las orillas desta billa, por la parte del norte qe. son las chorreras del difunto Don José Moreno y del Bachiller Don Santiago Rroibal, las mismas qe. pido ha usia en nombre del rrei mi amo, Dios le guarde, de merse, la qe. espero se me hamplee en nombre de su majestad, posesionandome sin perjuicio de tercero. A usia pido i suplico sea mui serbido de faboreserme como yebo pedido; y juro en debida forma no ser de malisia i en lo necesario, &c.

ROQUE LOBATO.

En la villa de Santa Fé, en veinte y tres dias del mes de Septiembre de mil setecientos ochenta y cinco años: Ante mi, el Coronel de Cavalleria de los rs. exs. de su magd. Dn. Juan Bapta. de Anza. governador politico y militar de esta prova. del Nuevo Mexco., se presento la antecedente peticion por el contenido en ella que huve por tal y admitida; y en atencion a su solicitud concedia y concedi en nombre de su magd. (D. G.) al expresado Roque Lovato la merced que pide, sin perjuicio de tercero, y con la calidad de que cultive las tierras que expresa, conforme a lo prevenido por las rs. leyes, y á efecto de darle real y personal poseccion concesiono y doy facultad quanta de dro. se requiere al Segundo The. Dn. José Maldonado para que, en virtud de esta comicion, citando a los colinderantes y no resultando el enunciado perjuicio, lo verifique, midiendo las varas que tenga á todos rumbos que se expresaran en el correspondiente auto de poscecion, como las mojoneras estables que devera poner el impetrante; y concluido todo se me hara remicion del original para asentar esta merced en el libro de govierno. Asi lo providencie, mande y firme con los testigos de mi ásistencia, a falta de escribano publico ni real, por no haverle en todo este govierno, y en este papel que, a falta del sellado lo havilito por tal, y del sello tercero; de que doy fé.

JUAN BAPTA. DE ANZA.

Assa.: VICENTE TRONCOSO.
Assa.: FRANCO PEREZ SERRANO.

En la villa de Santa Fé, en veinte y cinco dias de el mes de Septiembrie de mil setecientos ochenta y cinco, en virtud de lo mandado por el señor coronel y govr. de esta provincia Dn. Juan Baptista de Anza, comparescan los colindantes el dia de mañana, que somos veinte y seis, que lo son José Pacheco, Phelipe Sandobal, y Franzco. Cayetano, con su escripturas de venta real, y asi mismo para que declaren si ay contraditorio en lo que pretende el ynpetrante Roque Lovato en la merced que solecita. Assi lo prohebi, mande y firme con los infrascriptos testigos de asistencia, a falta de escrivanos publico ni real, que de ninguna clase los ay en esta governacion; de que doy fee.

JOSÉ MALDONADO.

Tgo.: BICENTE ARMIJO.
Testigo: SALVADOR NORO.

En la expresada villa de Santa Fé, en veinte y seis dias de dho. mes y

año, pase en compañia de los testigos de assistencia al sitio que tiene rregistrado Roque Lovato, endonde comparecerron los

En esta villa de Santa Fé, en dies i ocho del mes de Otubre de mil seticientos noventa y cinco años, ante mi Dn. Josef Miguel de la Peña, alcalde mayor y capitan a guerra de dicha villa y su juridicion, parecio ante me Josefa Armija, mujer que lo fue del soldado armero de este real precidio Roque Lovato, quien doi fee, que por quanto haver causado una dependiencia su difunto marido en la casa de Dn. José Ortiz tuvo de poner en benta la casa de su morada y tierras i al soldado de esta villa de Santa Fé Josef Ribera, por la cantidad de quatrocientos cinquenta pesos de plata moneda merica, los que rrecibio a su entera satisfacion, y que asi mismo y por tanto otorgaba esta escritura en dicho soldado dandole y entergandole la posecion, que parara en su poder, de que fue donada por el rrei nuestro señor, que Dios guarde, traspasando en el todo su derecho en dicha casa i tierras, las que se componen, siendo sus linderos por el oriente unos serros prietos; por el poniente el camino rrial que sale de esta villa para el Rio Arriba, el bordo que divide los ejidos del Rrio de Tesuque y Sta. Fee, y por el sur el camino del norte de la Muralla, como asi mismo dijo que no havria nadien que le pusiera pleito ni demanda ninguna, y que si en algun dia saliere alguno á poner algun perjuicio que no sean oidos ni en juicio ne fuera del, y que saldra a la defensa asta dejarlo en quieta y pacifica posecion, pues tan justamente queda poseyendo por haverme dado su dinero limpio y á satisfacion. Y dá poder a las justicias de S. M., y en particular a las de esta villa, para que con todo rrigor de derecho le compelen y apremien á el cumplimiento de esta escritura, como si fuera por sentencia difinitiva de juez competente pasada en cosa jusgada; y para cuyo sanamiento obliga sus persona y bienes habidos y por haver. Todo lo cual otorgo la dicha Josefa Armija ante me, que lo auto como jues resetor, con los testigos de asistencia por no haver escrivano publico rrial en este rreino, y llo, dicho alcalde mayor, lo firme con los testigos de mi asistencia en la villa de Santa Fé; en dies i ocho dias del mes de Otubre de mil setecientos noventa y cinco; de que doy fee.

JOSEPH MIGUEL DE LA PEÑA.

Tes.: SANDOVAL FERNANDEZ.
MIGUEL SAEN GARBISO.

To his excellency, governor and captain general of this kingdom, Colonel Juan Bautista de Anza.

I, Roque Lovato, armorer of this royal garrison of Santa Fé, appear in the best allowable form and most convenient to me, and state that whereas I am destitute of any portion of land to enable me to live and build a house, and cultivate land for the support of my family, I have entered a piece of public land in the suburbs of this city, on the north, being the adjoinings [chorreras] of José Morena, deceased, and of bachelor Santiago Roival, which land I ask of your excellency as a grant, in the name of my lord, God preserve him, and I trust will be given me, in the name of His Majesty, placing me in possession without prejudice to any third party.

I ask and pray that your excellency be pleased to grant me as I have requested, and I swear in due form not to act in malice, and as may be necessary, &c.

ROQUE LOVATO.

At the town of Santa Fé, on the 23d day of the month of September, 1785, before me, Juan Bautisto de Anza, colonel of cavalry in the royal army of His Majesty, civil and military governor of this province of New Mexico, the foregoing petition was presented by the party therein contained, which document I recognized and admitted, and in consideration of his prayer I have made, and do make, to the said Roque Lovato, in the name of His Majesty, (whom God preserve,) the grant he asks, without injury to any third party, and on the condition that he cultivate the land he refers to, in compliance with the requirements of the royal laws; and for the purpose of giving him royal and personal possession, I commission and confer all necessary legal authority upon Second Lieutenant José Maldonado, to the end that in virtue of this commission, and summoning the adjoining proprietors, and there resulting none of the injury referred to, he may execute the same, measuring off the number of varas called for on each course, and which will be stated in the corresponding act of possession as well as also the permanent land-marks, which the petitioner will have to erect; and the whole being concluded he will transmit to me the original, so as to enter this grant in the government book. Thus I provided, commanded, and signed, with my attending witnesses, for lack of a public or royal notary, there being none in all this jurisdiction, and on this paper, which, for want of the stamped, I legalize as such as of the third seal, to which I certify.

JUAN BAUTISTA DE ANZA.

Attending: VICENTE TRONCOSO.
Attending: FRANCISCO PEREZ SERRANO.

At the town of Santa Fé, on the 25th day of the month of September, in the year 1785, in virtue of the command of Colonel Juan Bautista de Anza, governor of this province, the adjoining proprietors will come forward the 26th, (these being José Pacheco, Felipe Sandoval, and Francisco Cayetano,) with their deeds of title, and also to state whether there is any objection in the matter of the grant applied for by the petitioner, Roque Lovato. Thus I provided, ordered, and signed, with the undersigned, my attending witnesses, for want of a public or royal notary, of which there are none of any kind in this jurisdiction, to which I certify.

JOSÉ MALDONADO.

Witness: VICINTE ARMIJO.
Witness: SALVADOR NORO.

At said town of Santa Fé, on the 26th day of said month and year, I proceeded, in company with the attending witnesses, to the tract of land registered by Roque Lovato, where there personally appeared the

(Balance of document lost or destroyed.)

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, John Gwyn, jr., upon my oath, state that the foregoing transcript is a full, true, and correct translation of the original in the Spanish language, to the best of my knowledge and belief.

JOHN GWYN, JR.

Subscribed and sworn to before me this 12th day of April, A. D. 1871.
[SEAL.]

M. A. BREEDEN,
Deputy Clerk, United States District Court,
First Judicial District, New Mexico.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, July 1, 1871.

The foregoing translation having been by me compared with its original, on file in this office, and found correct, the same is hereby adopted.

DAV. J. MILLER, *Translator.*

At this city of Santa Fé, on the 18th day of the month of October, in the year 1795, before me, José Miguel de la Peña, chief alcalde and war captain of said city and its jurisdiction, Josefa Armijo appeared, formerly wife of the soldier Roque Lovato, armorer of this royal garrison, whom I know; that whereas her deceased husband having created a debt in the house of José Otiz, he was obliged to sell to the soldier of this town of Santa Fé, José Ribera, the house of his residence and the land, for the sum of $450, in specie, which he received to his entire satisfaction, and that therefore she executed this document to the said soldier, giving and delivering to him the possession she held, which was granted by our lord the King, whom may God preserve, conveying to him all her right in said house and land, composed of, and the boundaries being—on the east, some black hills; on the west, the main road running out of this city for the Rio Arriba to the limits, which divide the pasture ground of the Tesuque River from Santa Fé; and on the south, the road on the north of the Muralla; and she also declared that there should be no one to interpose any suit or demand, and that should there at any time any one interpose any obstacle, the same should not be heeded in court nor out of court, and that she would proceed to the defense until leaving him in quiet and peaceable possession, for he justly possesses it, having paid good money to my satisfaction therefor, and she gives authority to the officers of justice of His Majesty, and particularly to those of this city, so that with full rigor of the law they may compel and oblige her to the performance of this instrument, the same as if done under definite judgment of a competent justice, pronounced in a matter adjudicated, and for the execution of which she binds herself and her estate, present and future; all of which the said Josefa Armijo declared before me, acting as special justice, (juez receptor,) with attending witnesses, there being no public or royal notary in this province, and I, said chief alcalde, signed this with my attending witnesses, at the city of Santa Fé, on the eighteenth day of the month of October, seventeen hundred and ninety-five, to which I certify.

JOSÉ MIGUEL DE LA PEÑA.

FELIPE SANDOBAL FERNANDEZ.
MIGUEL JEAN Y ARLESE.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, John Gwyn, jr., upon my oath, state that the foregoing transcript is a true and correct translation of the original in the Spanish language to the best of my knowledge and belief.

JOHN GWYN, JR.

Subscribed and sworn to before me this 12th day of April, A. D. 1871.
[SEAL.]

M. A. BREEDEN,
Deputy Clerk, United States District Court,
First Judicial District, New Mexico.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, July 1, 1871.

The foregoing translation having been by me compared with its original in Spanish, on file in this office, and found correct, the same is hereby adopted.

DAV. J. MILLER, *Translator.*

ROQUE LOVATO.

ANTONIO SENA, being by the surveyor general sworn on his oath, declares:

Questioned by JOHN GWYN, attorney for claimant:

Question. What is your name, where were you born, where have you always lived, and what is your age?—Answer. My name is Antonio Sena; I was born and have always lived here in Santa Fé, and am about sixty years of age.

Q. Do you know the tract of land granted to Roque Lovato?—A. I do.

Q. Where is it situated?—A. It is situated on the hill near Santa Fé, on the road to the Rio Arriba.

Q. Do you know the boundaries of the tract referred to, and, if so, mention them?—A. I do; they are as have been pointed out to me and as I have seen in the title papers, on the north the top of the dividing ridge between Santa Fé and Tesuque, on the south the road running along the foot of the hills eastward from the Muralla in Santa Fé, on the east some black hills, and on the west the road leading from Santa Fé to the Rio Arriba.

Q. Were the title papers complete when you saw them?—A. They were.

Q. Did the act of possession given by the alcalde of the land state the boundaries you have mentioned for the tract?—A. It did.

Q. In what year did you see the title papers, and what was the occasion of your examining the case as to boundaries?—A. It was in th year 1829 or 1830, and I examined the case for the reason that the the owner was proposing to sell the tract to me.

Q. Has the land been occupied and houses built and occupied by the grantee Lovato and his successors?—A. It has been occupied, and I know that Jesus Rivera, one of Lovato's successors, occupied a house on the tract still there and still occupied as a dwelling.

Q. How did Rivera come in possession of the land?—A. I have seen the deed of conveyance to him of the land by Roque Lovato.

Q. Have you any interest directly or indirectly in this claim?—A. I have none.

Q. Do you know, and, if so, please state to whom Rivera sold the land?—A. I do; he sold to Gaspar Ortiz y Alarid.

Questioned by Surveyor General:

Q. Do you know, and, if so, please say when Señor Ortiz purchased the land?—A. I cannot say, but believe somewhere between the years 1855 and 1860.

Q. When did Señor Rivera acquire the land by purchase, if you can state?—A. I cannot say, but calculate it must have been along in 1770 or 1780 odd.

Q. Who owned it in 1830?—A. Jesus Rivera.

ANTONIO SENA.

Sworn to and subscribed before me this May 3, 1871.

T. RUSH SPENCER,
Surveyor General.

RAMON SENA Y RIVERA sworn.

Questioned by said attorney of present claimant:

Question. What is your age, where were you born, and where have

you always resided?—Answer. I am fifty-three years of age, and was born and have always resided in Santa Fé.

Q. Do you know the land granted by the Spanish Government to Roque Lovato?—A. I do.

Q. Have you ever seen and examined the original title papers to the land referred to, and, if so, when and under what circumstances?—A. I have seen them and examined them frequently, since the time I could read and up to the year 1840, when I married and left my father's house, said papers being during the time referred to in possession of my father.

Q. Who was your father, and what relation did your father bear to the grantee, Roque Lovato?—A. His name was Jesus Rivera, and he was the purchaser from said Lovato.

Q. Do you know the boundaries of the land in question, and, if so, please state them?—A. I know the boundaries; they are on the east some black hills, commonly called the Serro Alto, which can be seen to the east of this city, and from the city on the west the road running to the Rio Arriba, on the south the road leading along the foot of the hills northwardly from the Muralla, and on the north the dividing ridge between Santa Fé and Tesuque.

Q. When you examined the papers anterior to 1840 as stated, were they complete, and were the boundaries therein stated the same as those you have mentioned for the tract in question?—A. The papers were complete, and the boundaries are the same, as I am aware as well from my recollection of their statement in the act of possession as from my personal acquaintance with them.

Q. What are the distances one from the other of these boundaries north to south and east to west?—A. From my best judgment I calculate that between those north and south there is about one league and a half, and between those east and west about one league.

Q. Did your father hold and exercise absolute possession and control of the tract in question as successor of Roque Lovato?—A. He did.

Q. How long did he hold such possession and control, and how long did he live on the tract?—A. When I was born he was living on the land, and occupied it some forty or fifty years.

Q. Did your father cultivate the land or make any improvements on it?—A. He cultivated a portion of the tract and improved the principal house by rebuilding and improving it, being the original building built and formerly occupied by Roque Lovato.

Q. Please examine the sheet of paper handed you, purporting to be the original petition of Roque Lovato for the land in question, the decree of the civil and military provincial governor of New Mexico on said petition, and a portion of the act of possession for the land, said paper being the muniment of title filed in this case, and say whether the document is the same you have referred to as in possession of your father previous to 1840, and then seen and examined by you?—A. It is the original grant and the same I saw and examined when the same was in possession of my father at the time mentioned.

Q. Whom did your father dispose of this land to, how and when?—A. He disposed of it by sale to Gaspar Ortiz y Alarid, about the year 1850 or 1851.

Q. Have you any interest in this claim?—A. I have none.

RAMON SENA Y RIBERA.

Sworn to and subscribed before me this May 3, 1871.

T. RUSH SPENCER,
Surveyor General.

ANTONIO SENA recalled.

Questioned by claimant:

Question. Do you know the signature of Governor Juan Bautista de Anza signed to the muniment in this case, and do you know the signature of José Maldonado mentioned in Governor Anza's decree of grant in said muniment, and, if so, do you believe said signatures to be genuine?—Answer. While I had charge for some years under the Mexican government of the archives in the government office I often saw the signature of Governor de Anza among the archives and became familiar with it, and the same also and for the same reason with the signature of José Maldonado, and I am satisfied both signatures in this case are genuine signatures.

ANTONIO SENA.

Sworn to and subscribed before me this May 3, 1871.

T. RUSH SPENCER,
Surveyor General.

TERRITORY OF NEW MEXICO,
County of Santa Fé:

On this 8th day of April, in the year one thousand eight hundred and seventy-one, before me, the undersigned, clerk of the probate court in and for the county and Territory aforesaid, personally appeared Gaspar Ortiz y Alarid, a resident of Santa Fé, New Mexico, to me well known as a credible and respectable person, who, being by me duly sworn according to law, declares that his age is forty-six years; that during the years one thousand eight hundred and fifty-one, two, and three, and for many years previous thereto, he held in his possession, care, and keeping, the original title papers of Roque Lovato, deceased, for the grant of land made and decreed to said Roque Lovato, by Juan Bautista de Anza, governor and captain general of the province of New Mexico under the Spanish reign, in the year A. D. seventeen hundred and eighty-five; that said title papers were then complete, containing the transcript of the full proceedings of Lieutenant José Maldonado, upon whom was conferred full and complete legal authority by the decree of said governor and captain general to place said Roque Lovato in full and complete royal possession of said grant; that the portion of the proceedings in the original transcript of the act of possession by said Lieutenant José Maldonado which is now lost or destroyed, (the beginning or first part of which act of possession bears date at Santa Fé, New Mexico, September 26, 1785,) contained full and complete possession of the property granted, and stated the boundaries to the same as follows: On the east, some black hills; on the west, the main road running out of this city, (Santa Fé,) for the Rio Arriba; on the north, the main dividing ridge between the Rio de Santa Fé and Rio Tesuque; on the south, the road on the north of the Moralla, being the same identical land granted to said Roque Lovato in the decree of said governor and captain general, bearing date at Santa Fé, September 23, 1785, and which grant of land is about three miles in length from north to south, and about ten miles in width from east to west; that about the year 1854 this deponent deposited said original title papers in the hands of Messrs. Hugh N. Smith and Meril Ashurst, attorneys at law, at Santa Fé, New Mexico, for the purpose of deriving from said attorneys legal advice regarding trespassers then going upon said lands; that said attorneys kept in their possession said original title papers for several months, and when returned by them to this deponent that portion of the said article of pos-

session which is now missing from the papers was lost; that diligent search was made therefor by said attorneys, but they failed to find the same. This deponent further states that he has repeatedly made due and diligent search for said portion of the title papers referred to, now wanting, but that he has never been able to find them, and that he believes them to be destroyed or irretrievably lost; that both of said attorneys have departed this life, so that their evidence in relation to the loss as stated cannot now be had.

GASPAR ORTIZ Y ALARID.

Sworn to and subscribed before me this the 8th day day of April, A. D. 1871.

[SEAL.] TRINIDAD ALARID,

Clerk of the Probate Court, Santa Fé County, New Mexico.

ROQUE LOVATO.

This claim was filed in this office April 12, by Gaspar Ortiz y Alarid as present claimant, and was set for trial May 3, 1871.

The title papers filed are originals contained on a single sheet of paper, and from them it appears that one Roque Lovato, a soldier of the Spanish royal garrison at Santa Fé, petitioned the governor and captain general of New Mexico for a certain piece of public land, situated in the northern suburbs of Santa Fé, for the support therefrom of himself and family. The petition bears no date, and the land applied for is very indefinitely described therein.

Upon this petition the civil and military governor of the province decreed on the 23d of September, 1785, granting the land applied for to the petitioner without injury to any third party, and under the condition that the grantee should cultivate the land as required by the royal laws, and in the same decree appointed an officer as special commissioner to execute the act of possession under the grant, first notifying the adjoining settlers and ascertaining that no injury would result to them from the grant.

On the 25th of the same month the commissioner notified by name the three adjoining proprietors to come forward on the next day, exhibit their title papers, and make good their objection to the execution of the grant in case they had any to urge.

On the same sheet containing the notice, and in the same handwriting, appears the commencement of a document dated September 26, 1785, probably the act of possession which at the end of the page is cut short and the remaining portion of which document is missing. Among the papers filed in the case is an affidavit by the present claimant, Ortiz y Alarid, declaring that this document therein alleged by him to be the act of possession, was complete and in his possession until about the year 1854, when, for the purpose of some legal action in court, he placed the title papers, then all complete, including the mutilated document in question, in the hands of his attorneys, now deceased, who afterward returned them to him in their present incomplete condition, and that he has since made due diligent search for the missing portion without success, and believes the same to be irrecoverably lost or destroyed. The affiant also declares that in the said missing portion the boundaries of the land therein formally placed in possession of the grantee, Lovato, were plainly set forth and described as follows: On the east, some black hills; on the west, the main road from Santa Fé towards Rio Arriba; on

the north, the dividing ridge between the Tesuque and the Santa Fé rivers; and, on the south, the road north of the Muralla; these boundaries embracing a tract of about six square miles in area.

The instructions to the surveyor general require that in all cases of private land claims brought before him for adjudication the original title papers be produced or their loss accounted for. In the investigation of this claim, therefore, disinterested witnesses were examined under oath particularly as to the alleged former integrity of the mutilated act of possession filed in the case and as to the extent and boundaries of the land granted.

The witness Antonio Sena testified that he knew the land in question, and gave it the locality and boundaries alleged by the present claimant. He also testified to having seen the title papers now on file in the case as recently as about the year 1830, when he states they were complete, including the act of possession, which he alleges set forth the boundaries of the land substantially as mentioned by the affidavit above referred to of the present claimant. This witness also testified to the genuineness of the signature of Governor de Anza, who made the grant, and to that of Commissioner Jose Maldonado, who preliminary proceedings signed by him of September 25th, in the matter of the execution of the act of possession appear in the muniment filed. The witness Ramon Sena y Riveva testified that he had frequently seen the title papers prior to the year 1840, identifying the one shown him in this case as the same he referred to; that up to that time they were complete; that the boundaries of the tract in question were stated therein substantially as those alleged by the present claimant, and that the distance from one to the other from north to south was about one league and a half, and those from east to west about one league. It is proven that the land was occupied and improved, and in part constantly cultivated, and that for the last twenty years it has been in the possession of the present claimant, Ortiz y Alarid, as purchaser, to whom, however, no conveyance has been filed in the case.

Evidence exists among the archives and records of this office that Juan Bautista de Anza was civil and military governor of the province of New Mexico in the year 1785. His authority as such to make grants of land is unquestioned, and from a comparison of the signature to the grant in this case with other old papers of that period bearing the same, it is believed to be his genuine signature.

In view and consideration of the premises, it is deemed and held by this office that the grant made by Governor de Anza, September 23, 1785, to Roque Lovato, is a good and valid grant under the treaty of Guadalupe Hidalgo, and the laws of the United States enacted to give it effect, and the said grant is hereby approved to the legal representatives of the said grantee, Roque Lovato, for the land embraced within the following boundaries, to wit: On the north, the dividing ridge between Santa Fé and Tesuque; on the east, the black hills; on the south, the road north of and running east from the Muralla; and, on the west, the road to Rio Arriba; and all the papers in the case are herewith transmitted to the Congress of the United States, with the recommendation that said grant be recognized and confirmed.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, July 8, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 6, 1871.

The foregoing transcript contains true copies of the papers on file in this office constituting private land claim approved as No. 52 by the surveyor general, July 8, 1871.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim No. 53, *known as the Cañada de los Alamos grant, made to Lorenzo Marquez, September* 23, 1785, *and approved by the surveyor general of New Mexico, July* 12, 1871.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

To the surveyor general of the Territory of New Mexico:

Your petitioners, Pablo Delgado, Fernando Delgado, Felipe Delgado, and the heirs of Simon Delgado, all residents of the county of Santa Fé, in said Territory, respectfully represent that on the 23d day of September, in the year 1785, Juan Bautista de Anza, then governor and captain general of New Mexico, upon the petition of one Lorenzo Marques, granted to him a piece or lot of land situate, lying, and being in the county of Santa Fé, and bounded and described as follows, to wit: On the north, the main road from the Pecos to the Serillos; on the south the Cañada de la Tierra and the top of the Colorado Mountain; on the east the divide between the roads, that coming from the Pecos to the said town and that going to the Serillos through the land of José Maria Montoya, and on the west the top of the hills; that afterward, to wit, on the 7th day of October, in the year 1785, the said Lorenzo Marquez was duly put into possession of said piece of land so granted to him as aforesaid, as will more fully appear by reference to said petition, grant, and act of possession now on file in the office of the surveyor general, copies of which are herewith filed and marked Exhibit A.

Your petitioners further state that on the 20th day of June, A. D. 1856, the said Pablo Delgado, Fernando Delgado, Felipe Delgado, and one Simon Delgado, then in his life-time, for a good and valid consideration, purchased said piece or grant of land from the heirs of said Lorenzo Marquez, all of which will more fully appear by reference to the original deed on file in the office of the surveyor general, a copy of which is herewith filed and marked Exhibit B.

Your petitioners further state that the said Lorenzo Marques in his life-time, and his heirs since his death, occupied and possessed said grant or piece of land until the date of said deed, and since said time your petitioners have peaceably held possession of the same, and are now in actual possession thereof; that the occupancy and possession of said land by the said Lorenzo Marquez was continuous, quiet, peaceable, and undisturbed, and that no adverse claim to the same has ever been asserted by any one to the knowledge of your petitioners.

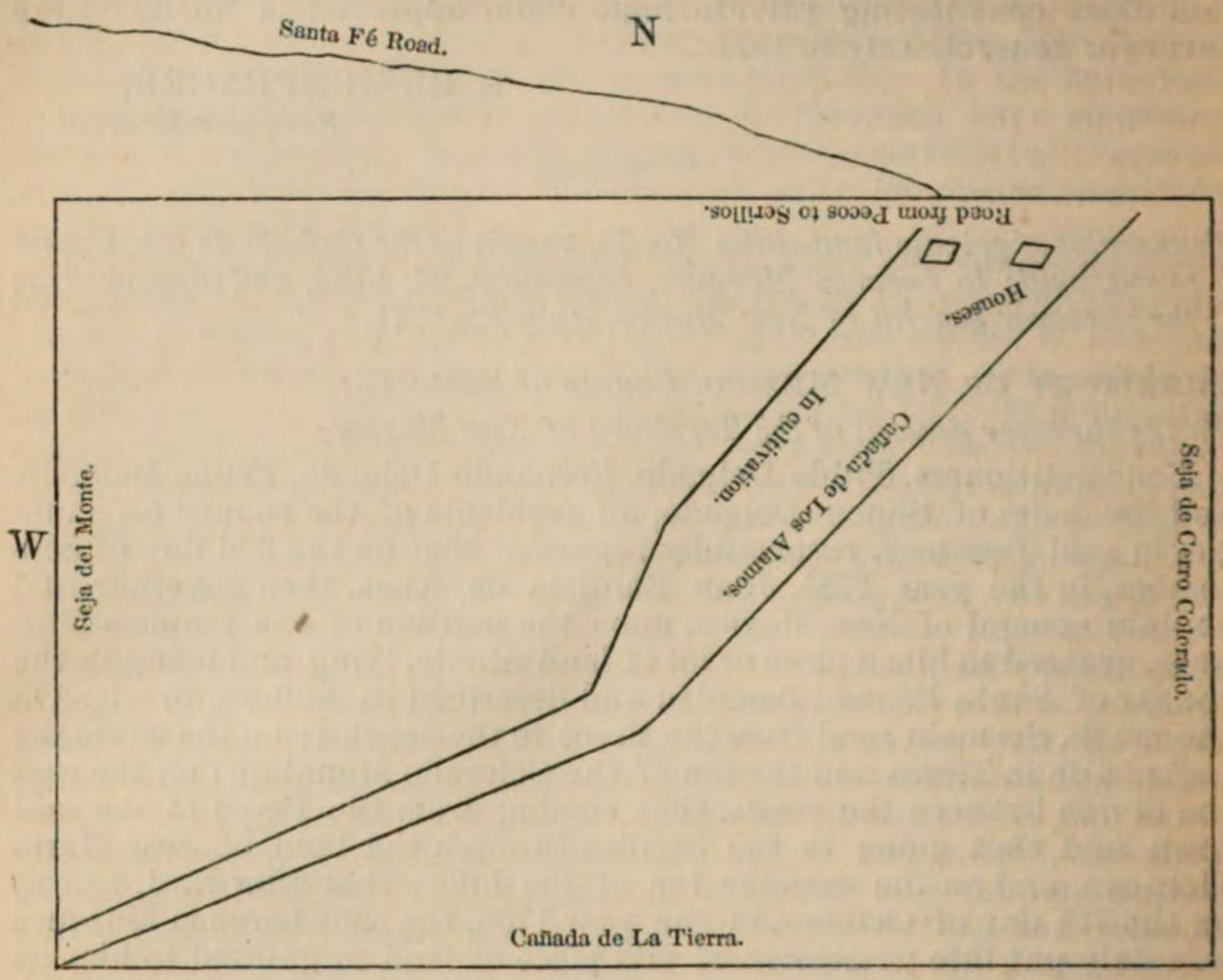
Your petitioners further state that the boundaries to said land and grant are well known, but they cannot state the quantity of land embraced therein, as the same has never been surveyed; that they make this application in order that such steps may be taken under the law as will secure to them a good and valid title to said grant.

S. B. ELKINS,
Attorney for Claimants.

SANTA FÉ, NEW MEXICO, *June* 19, 1871.

Grant.

Map of the Cañada de Los Alamos.



Estimated distance from east to west nine miles, about; from north to south seven or eight miles.

Sr. Govr. y Cap. Genl. Coronel:

Lorenzo Marquez, vesino desta billa, paresco ante vs. con la mejor forma que alla lugar y al mio cobenga, y digo sor. que tengo visto y registrado un pedaso de tierra y riasa y por eso realenga en la Cañada de los Alamos, birtentes de dha. villa, y dha. tierra son sobras de la tierra del Cap. Sebastian de Bargas; para el sur y para el poniente linda dha. tierra con la Cañada que llaman de la Tierra, para el norte linda con dhas. tierras de Bagas, y para el oriente linda dha. tierra realenga con el camino de Pecos que baja a los ranchos de la sienega, la que pido a Vs. de mersed en nombre de su mgd., que Dios guarde, para sembra y tener el vien de mi mantension, prometiendo, como prometo, poblarla y labrarla en el termino que mandan las leyes y porque estoy promto aser como llevo dicho, pido y suplico.

A Vs. por quien es en nombre de mi soberano, que dios guad., se sirva de hacer, prover y mandar como llevo pedido; que resebire bien y mersed, y juro en toda forma no ser de malisia y en lo nesesario, &ca.

LORENZO MARQUEZ.

En la villa de Santa Fé, en veinte y tres dias del mes de Septiembrie de mil setecientos ochenta y cinco años, ante me, el coronel de cavalleria de los rs. extos. de su magd. Don Juan Bapta. Anza, governador poli-

tico y militar de esta provincia del Nuevo Mexico, se presento la antecedente peticion por el contenido en ella, que huve por tal y admitida y en atencion a su solicitud concedia y concedi, en nombre de su magd., (que Dios gue.) al expresado Lorenzo Marquez la tierra que pide, sin perjuicio de tercero, y con la calidad de que las cultive conforme a lo prevenido por las rs. leyes; y a efecto de darle real y personal pocesion comiciono y doy facultad quanta de dro. se requiere al alcalde mayor de esta villa Dn. Antonio José Ortiz, para que, en virtud de esta comicion, citando a los colinderantes y no resultando el enunciado perjuicio, lo verifique, midiendo las varas que tenga a todos rumos, que se expresara en correspondiente auto, expresando en el mismo las mojoneras estables que ponga el empetrante, y concluido todo se me haga remicion del original que resulte, para asentar esta merced en el libro de govierno. Asi lo providencie, mande y firme con los infraescritos testigos de mi assa., con quienes actuo a falta de escribano publico rl., por no haverlo en todo este govno. y en este papel que a falta del sellado lo habilito por tal, y del sello tercero; de que doy fe. Entre Renglones Y Perdenal Ve.

JUAN BAPTA. DE ANSA.

Assa.: FRANCO. PEREZ SERRANO.
Assa.: VICTE. TRONKOSO.

En siete dias del mes de Otubre deste año de mil setecientos y ochenta y sinco, yo Dn. Antto. José Ortiz, alcalde mayor y capn. a gerra de la villa de Sta. Fee, en cumplimiento de lo mandado por el señor coronel de los reales hexercitos de su majestad Dn. Juan Bapta. de Anza, gobernador politico y militar deste [torn] del Nuebo Mexico, pase yo, dho. alcde. mayor, al paraje de la Cañada de los Alamos, en compania de tres testigos, qe. lo fueron Diego Montoya, Gabiel Ortiz y Antto. Lugan, y cuando presente José Maria Montoya qe. es el unico colindante, y le de a entender la peticion precentada por Lorenso Marques, y dijo que no le prejudicaba en nada; y con esta despuesta coji de la mano a el dho Lorenzo Marques y lo pasie por dhas. tieras, aranco sacates, tiro piedras, dio boses, disciendo, Viva el rey de España, mi señor Dn. Carlos tercero, qe. Dios guarde, tomando posecion de dhas. tierras, quieta y pacifica, sin contradicion alguna, señalandole sus linderos, qe. son por la parte del norte el camino real qe. baja de Pecos para los Serrillos, y por la parte del sur con la cañada de la siera y la seja de el Sero Colorado, y por el oriente la dibision de los caminos, el que viene a esta dha villa de Pecos y el qe. baja a los Serrillos, qe. divide las tierras de José Maria Montoya, y por el poniente la seja del monte; abitiendole que pastos y abrevaderos son comunes; y dista dicho sitio desta villa sinco leguas y media. Y para qe. en todo tiempo coste lo firme, autuando con dos testigos de asistensia, por la notoria falta describanos publico y real que no lo ay en esta probincia; y con el presente papel por no corer el sellado en estas partes; de qe. doy fee. Entre Ringlones: Y por el poniente la seja del monte, Ve.

DIEGO MONTOYA.
FRANCO. XABIER ORTIZ.

Dros. de papel sellado 3.87, los que reentegro la parte, no obstante lo que expresa el auto de pocesion y cuia cantidad entregue a Dn. José Rafael Sarracino.

ANSA.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Sepan todos por estas presentes que nosotros, José Maria Marques,

Andres Marques, Refugia Marques y Juanita Marques, todos residentes del condado y Territorio arriba dicho, en i por consideracion de la suma de doscientos pesos, pagada i entregada a cada uno de nosotros, como por su parte le corresponda, por Simon Delgado, el recibo de los cuales es por este acusado, hemus vendido, contratado, concedido, y traspasado al dicho Simon Delgado i a sus hermanos, Pablo Delgado, Fernando Delgado y Felipe Delgado, a sus herederos, i asignados (assigns), para siempre, la siguiente descripta propiedad raiz, i todo titulo i interes que en ella tenemus, hemus tenido i podiamus tener, junto con todos los privilegios i pertinencias que a ella son propias i de la cual tenemus ahora una possession irrevocable, "in fé simple," i que es libre de toda hipoteca, reclamo o impedimientos algunos, hechos ó sufridos sea por nosotros, ó uno de nosotros mismos, ó por alguna otra persona en nuestros nombres o por orden de nosotros. La dicha propriedad consista en todas aquellas tierras que fueron donadas a nuestro aguelo Lorenzo Marques por el gobernador y capitan general del reyno de Nuevo Mejico, Juan Bautista de Anza, el dia 23 de Setiembre de 1785; que son cituadas en el paraje de la Cañada de Los Alamos, condado de Santa Fé y Territorio de Nuevo Mejico, y cuyos linderos son por el norte el camino real que baja de Pecos para los Cerrillos por el sur la Canada de la Tierra y la ceja del Cerro Colorado; por el oriente la division de los caminos, el que viene a esta villa de Pecos y el que baja a los Cerrillos, y por el poniente la ceja del monte. El documento original de la dicha donacion esta enregistrado en la oficina del agrimensor general en Santa Fé, N. M., a cuyo documento se refiere por mas amplia description de la dicha propiedad, que vino a possession de nuestro finado padre Bartolo Marques como hijuela, segun la ultima voluntad del dicho concesionario Lorenzo Marques, nuestro aguelo, y habiendo gozado nuestro finado padre la pacifica possession de dichas tierras por mas de treinta años vinieron a nosotros como *los unicos* herederos del finado Bartolo Marques.

Para que los dichos Simon Delgado, Pablo Delgado, Fernando Delgado i Felipe Delgado, sus herederos i asignados, gozan para siempre i pacificamente la arriba descripta propriedad rais, junto con todos los titulos, privelegios i pertenencias que a ella son propias, sea por ley o equidad, declaramus tener poder amplia para vender i traspasar dicha propiedad, i que nosotros, José Ma. Marques, Andres Marques, Refugia Marques i Juanita Marques, sostendremus, apoyaremus i defiendremos, i nuestras herederas, ejecutores, administradores ó albeceos sostendran, apoyaran i defiendran el buen titulo de la dicha propiedad en todo tiempo contra todo reclamo ó reclamos de cualquiera persona o personas.

En testimonio de lo cual hemus puesto nuestros nombres y sellos, hoy, en Santa Fé, el dia 20 de Junio de 1856.

his
ANDRES + MARQUES. [SELLO.]
mark.

her
REFUGIA + MARQUES. [SELLO.]
mark.

her
JUANITA + MARQUES. [SELLO.]
mark.

JOSÉ MARIA MARQUES. [SELLO.]

Firmado, sellado i entregado en presencia de—

A. DE MARLE.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Personalmente se presentaron este dia de Julio de 1856, ante mi, el abajo firmado escribano de la corte de districto del condado de Santa Fé, Territorio de Nuevo Mejico, José Maria Marques, Andres Marques, Refugia Marques, i Juanita Marques, todos de mayor edad, i cuyos nombres parescen en el antecedente documento de traspaso y acusaron uno por uno de haver voluntariamente ejecutado i firmado el dicho documento por la consideracion y para los fines en el espresados.

Dado bajo mi mano y sello official en Santa Fé, N. M., año y dia arriba dicho.

[SEAL.] AUGUSTIN DE MARLE, *Clerk.*

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Certifico que el antecedente documento de traspaso es sentado por mi en el libro de registro Lo. B. paginas 193, 194 y 195, que es tenida en esta officina por tal objeto.

En testimonio de lo cual he puesto mi nombre y el sello de la corte de pruebas de este condado hoy Setiembre 8 de 1856.

[SEAL.] FACUNDO PINO.
Esbo. de la Corte de Pbas.

His excellency the governor and captain general:

I, Lorenzo Marques, resident of this town, appear before your excellency in due form, and state that I have examined and registered a piece of land, uncultivated, and therefore royal domain, at the Cottonwood Valley, (Cañada de los Alamos,) in the descents from said town, and the said land is a surplus to the land of Captain Sebastian de Vargas. On the south and west said land adjoins the little valley called La Cañada de la Tierra; on the north it adjoins the said Vargas land; on the east the said royal domain adjoins the Pecos road going to the ranchos of the Cienega, and I ask a grant for the same, in the name of his Majesty, whom may God preserve, for the purposes of planting and for my support, promising, as I do, to settle and cultivate it within the time required by law; and, inasmuch as I am ready to carry out what I have above stated, I ask and pray your excellency, now acting in the name of my sovereign, God preserve him, that you be pleased to direct, provide, and command, as I have requested, whereby I will receive benefit and favor, and I declare in due form that I act not through dissimulation, and whatever is necessary, &c.

LORENZO MARQUES.

At the town of Santa Fé, on the 23d day of the month of September, in the year 1785, before me, Juan Bautista de Anza, cavalry colonel in the royal armies of His Majesty, and civil and military governor of this province of New Mexico, was presented the foregoing petition for consideration, and which I therefore received, and, in compliance with the prayer thereof, I did grant, and do grant, in the name of His Majesty, (whom may God preserve,) to the said Lorenzo Marques, the land that he petitions for, without injury to any third party, and with the condition that he cultivate the same in conformity to the royal laws; and to the end that he may be placed in royal and personal possession, I commission and confer all necessary authority upon Antonio José Ortiz, senior alcalde of this city, to execute by virtue of said commission this my decree, he citing the surrounding settlers and ascertaining that no injury to third parties will result, measuring off in all directions the varas that may be

required, which will be mentioned in the proper document, wherein will also be described the durable landmarks the petitioner may erect, and all this being done, the resulting original document will be remitted to me, so that this grant may be recorded in the government book.

Thus I provided, ordered, and signed with the undersigned witnesses in my attendance, with whom I act for want of a public or royal notary, there being none in all this province, and on this paper, which I use for want of stamped paper, but which I legalize as the third seal, to which I certify. The interlineation "and personal" is valid.

JUAN BAUTISTA DE ANZA.

Attending: FRANCISCO PEREZ DE SERRANO.
Attending: VICENTE TRONCOSO.

On the 7th day of the month of October, in the year 1785, I, Antonio José Ortiz, senior alcalde and war captain of the city of Santa Fé, in obedience to the command of Juan Bautista Anza, colonel in the royal armies of His Majesty, and civil and military governor of this province of New Mexico, proceeded to the place called Cañada de los Alamos accompanied by three witnesses, Diego Montoya, Gabriel Ortiz, and Antonio Lujan, and the only adjoining settler, José Maria Montoya, being present, I explained to him the petition made by Lorenzo Marques, and he stated that it did not interfere with him in any respect, and with this assurance I took the said Lorenzo Marques by the hand and led him over the land, and he plucked up grass, cast stones, and shouted aloud, Long live my sovereign, Carlos the III, King of Spain, and may God preserve him! taking possession of said land quietly and peaceably, and without any opposition whatever, the boundaries designated to him being on the north the main road from the Pecos to the Serillos; on the south, the Cañada de la Tierra and the top of the Colorado Mountain; on the east, the divide between the roads, that coming from Pecos to the said town, and that going to the Serillos through the land of José Maria Montoya; and on the west, the top of the hills, notifying him that the pastures and watering places remain for the public use, and the said locality is distant from this city five leagues and a half.

And that in all time it may so appear I signed this document, acting with two attending witnesses, for the well-known lack of a royal or public notary, there being none in this province, and on this paper, there being no stamped paper in these parts, to which I certify.

The interlineation, "an on the west the top of the hills," is valid.

ANTONIO JOSÉ ORTIZ.

DIEGO MONTOYA.
FRANCISCO XABIER ORTIZ.

Fees on the stamped paper, 3 rials, which I received from the party, notwithstanding those called for by the act of possession, and which sum I delivered to José Rafael Sarracino.

ANZA.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 8, 1863.

The foregoing four pages contain a correct translation from the original Spanish in this office.

DAV. J. MILLER,
Translator.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

Know all men by these presents, that we, José Maria Marques, Andes Marques, Refugio Marques, and Juanita Marques, all residents of the county and Territory above mentioned, for and in consideration of the sum of $200, paid and delivered to each one of us, according to our respective proportions, by Simon Delgado, the receipt whereof is hereby acknowledged, we have sold, bargained, granted, and conveyed to the said Simon Delgado, and to his brothers, Pablo Delgado, Fernando Delgado, and Felipe Delgado, their heirs and assigns (asignados) forever, the following-described real estate, together with all the title and interest we have, have had, or might have had therein, together with all the privileges and appurtenances thereunto belonging, and in which we now have irrevocable possession "in fee simple;" and that it is free from all mortgage, claim, or incumbrance whatever imposed by us, or either of us, or any other person in our name or by our direction. The said property consists of all those lands granted to our grandfather, Lorenzo Marques, by Juan Bautista de Anza, governor and captain general of the province of New Mexico, on the 23d day of September, 1785, and which are situated at the place Cañada de los Alamos, county of Santa Fé and Territory of New Mexico; and whose boundaries are: on the north, the main road from Pecos to the Cerillos; on the south, the Cañada de la Tierra and the top of the Colorado Mountain; on the east, the division of the roads, that coming to this town from the Pecos and that going to the Cerillos; and on the west, the top of the hill. The original document of the said grant is on file in the office of the surveyor general at Santa Fé, New Mexico, to which document reference is made for a more full description of said property, which came into the possession of our deceased father, Bartolo Marques, by bequest made in the last will of said grantee Lorenzo Marques. Our grandfather and our deceased father having enjoyed the peaceable possession of said lands for more than thirty years, they descended to us as the sole heirs of Bartolo Marques, deceased; and that the said Simon Delgado, Pablo Delgado, Fernando Delgado, and Felipe Delgado, their heirs and assigns, may peaceably and forever enjoy the above described real estate, together with all the title, privileges, and appurtenances thereunto pertaining, whether in law or equity, we declare that we have ample power to sell and convey said property; and that we, José Maria Marques, Andres Marques, Refugio Marques, and Juanita Marquez, will maintain, support, and defend, and our heirs, executors, administrators, or executrixes, shall maintain, support, and defend the good title to said property in all time and against all claim or claims of any person or persons whatever.

In testimony whereof we have signed our names and placed our seals this day at Santa Fé, on the 20th day of June 1856.

su
ANDRES + MARQUES. [SEAL.]
marca.

su
REFUGIO + MARQUES. [SEAL.]
marca.

su
JUANITA + MARQUES. [SEAL.]
marca.

JOSÉ MARIA MARQUES. [SEAL.]

Signed, sealed, and delivered in presence of—
A. DE MARLE.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

On this the —— day of July, 1856, personally appeared before me, the undersigned, clerk of the district court of the county of Santa Fé, Territory of New Mexico, José Maria Marques, Andres Marques, Refugio Marques, and Juanita Marques, all of them of legal age, and whose names appear in the foregoing instrument of conveyance; and they, each of them, acknowledged to having voluntarily executed and signed the said instrument for the consideration and purposes in the same expressed.

Given under my hand and official seal at Santa Fé, New Mexico, the year and day above mentioned.

[SEAL.] AUGUSTUS DE MARLE,
Escribano.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I certify that the foregoing document of conveyance is recorded by me in the book of records, letter B, pages 193, 194, and 195, which is kept in this office for such purposes.

In witness whereof I have signed my name and impressed the seal of the probate court of this county this September 8, 1856.

[SEAL.] FACUNDO PINO,
Clerk of the Probate Court.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 8, 1863.

The foregoing four pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,
Translator.

Cañada de Los Alamos.

In this case, JUAN MIGUEL ORTEGA, being by the surveyor general duly sworn, on his oath declares:

Question. What is your name, age, and residence; have you any interest in this case, and have you any blood relation to the present claimants, Simon Delgado and his brothers?—Answer. My name is Juan Miguel Ortega; my age is between sixty-four and sixty-five years. I reside here at Santa Fé; have no interest in the claim, and no relationship to the Delgados.

Q. How long have you resided at Santa Fé?—A. I was born and have always resided at Santa Fé.

Q. Do you know the land grant of the Cañada de los Alamos, and, if so, state where it is situated and what are its boundaries?—A. I know the place named; it is situate in this county of Santa Fé, and its boundaries are: on the north, the road leading from Pecos to the Serrillos; on the east, the Pecos road; on the south, the Cañada de la Tierra and the Ceja del Cerro Colorado; and on the west, the Ceja del Monte.

Q. Did you know Lorenzo Marques in his life-time?—A. I did when he was quite aged.

Q. Did you know whether said Marques had the tract of land in question in his possession and under cultivation, and whether after his death his sons held and cultivated the land?—A. I know such to have been the fact, both as to said Lorenzo Marques and his sons.

Q. How long did you know said Marques, and when did he die?—A.

I knew him first when I was about eighteen years old, and he died some five or six years afterward.

Q. Did you know Andres Marques, Refugio Marques, Juanita Marques, and José Maria Marques, and if so, state who they were?—A. I know all the parties named, and they—except Refugio Marques—were children of Bartolo Marques and grandchildren of Lorenzo Marques; said Refugio was an only surviving child of José Marques, son of Bartolo Marques.

Q. Was Bartolo Marques the only child and heir of Lorenzo Marques, so far as you knew?—A. He was, so far as I knew and believe.

Q. Do you know who are now in possession of the land in question, and, if so, state who and how long they have been in possession, and whether they have placed improvements upon and cultivated the land?—A. I know that the Delgados, who now claim the tract, have been in possession of the land since about the year 1856, and have cultivated and raised crops upon the land, having fenced a portion of it and erected a house there, now occupied as a residence.

JUAN MIGUEL ORTEGA.

Sworn to and subscribed before me this June 23, 1871.

T. RUSH SPENCER,
Surveyor General.

BRUNO VALENCIA being in like manner sworn, on his oath declares:

Question. What is your name and age, where do you reside, and have you any interest in this claim of the Cañada de los Alamos?—Answer. My name is Bruno Valencia; my age is about sixty-one years; I reside, and have always resided, here at Santa Fé, and I have no interest whatever in the claim.

Q. Have you any relationship to the present claimants in this case, the Delgados?—A. I have none that I know of.

Q. Do you know the Cañada de los Alamos tract of land now under investigation, and if so, where is it situated and who have occupied it since you have known it?—A. I know the tract mentioned, and it is situated in this county of Santa Fé. It was occupied by the descendants of Lorenzo Marques till some fifteen years ago or more, since which time the Delgados, who now claim, have occupied and cultivated the land.

Q. Did you know Bartolo Marques, and did you know him to be the heir of Lorenzo Marques, and if so, did you ever know any other heir of said Lorenzo?—A. I knew Bartolo Marques, and knew him as the reputed heir of Lorenzo Marques, and I never knew any other heir of said Lorenzo.

BRUNO his + mark. VALENCIA.

Sworn to and subscribed before me June 23, 1871.

T. RUSH SPENCER,
Surveyor General.

LORENZO MARQUES.

This claim was filed in this office February 23, 1856, under the act of July 22, 1854, the muniment filed consisting of a single document, comprising the original papers in the case, in the Spanish language. Upon application of the attorney of the present claimants, the case was taken up for investigation June 23, 1871.

From these papers it appears that one Lorenzo Marques, his application bearing no date, petitioned the governor and captain general of the province of New Mexico for a certain tract of vacant royal domain, describing the same as situated in the vicinity of the city of Santa Fé, in the Cañada de los Alamos, or Cottonwood Valley, bounded on the north by the land of Sebastian de Vargas, on the south and west by the Cañada de la Tierra, and on the east by public land and the road from the Pecos to the Cienega ranches.

On this petition the civil and military governor of the province, on the 23d of September, 1785, decreed, granting the land to the petitioner, with the boundaries set forth and applied for by him, without injury to any third party, and with the condition that the land be cultivated in conformity with the royal laws, and authorized and directed the senior alcalde to place the grantee in possession of the land so granted, first notifying the adjoining proprietors, and ascertaining whether, by making the grant, any injury would result to third parties.

On the 2d of October the senior alcalde, as appears from the act of possession executed by him, proceeded to the spot of land granted, known as the Cañada de los Alamos, and the sole adjoining proprietor, one José Maria Montoya, being there present, and declaring he had no objection, then and there formally placed the grantee, Marques, in possession of the land, describing it as distant five and a half leagues from Santa Fé, and stating its boundaries as, on the north, the main road from the Pecos to the Serillos, on the south the Cañada de la Tierra and the top of the Colorado Mountain, on the east the divide between the Pecos and Santa Fé road and the Serillos road, and on the west the top of the hills.

Proof by disinterested witnesses was presented before the surveyor general, in the investigation by him of this claim, showing that the land in question has always been in the possession and use of the grantee and his descendants and the assigns of these. The present claimants, Simon, Pablo, Fernando, and Felipe Delgado, have filed with the claim an authenticated conveyance to themselves from Andres, Refugio, Juanita, and José Maria Marques, alleged sole surviving heirs of the grantee, Lorenzo Marques, deceased, of all their right, title, and interest in the land in question. The proof presented fails to establish beyond all question that the parties making the conveyance were the sole legal representatives of the grantee.

The grant in this case is believed and held to be a good and genuine grant, under the laws, customs, and usages of Spain and Mexico, and under the treaty of Guadalupe Hidalgo. It is an absolute grant. The governor who made the grant is known to have been competent in the premises, and the signature purporting to be his, appended to the granting decree, has been verified as genuine by comparing it with his signature borne by other documents among the old Spanish archives of this office. The said grant is, therefore, hereby approved, with the boundaries set forth in the act of possession, to the legal representatives of Lorenzo Marques, without prejudice to the title of the present claimants, and is transmitted to the Congress of the United States, with a transcript of all the papers in the case, with the recommendation that the same be recognized and confirmed.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, July 12, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 6, 1871.

The foregoing transcript contains true copies of the papers on file in this office, constituting private land-claim approved as No. 53, by the surveyor general, July 12, 1871.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim reported as No. 54, *known as the Cuyamungue Grant, made to Bernardino de Sena and others January* 2, 1731, *and approved by the surveyor general of New Mexico November* 15, 1871.

BERNARDINO DE SENA ET AL.

UNITED STATES OF AMERICA, *Territory of New Mexico.*

To the Honorable T. Rush Spencer, United States surveyor general for the Territory of New Mexico:

Your petitioners, John W. Conway and his wife Maria de la Paz Valdez, heirs and legal representatives of Vicente Valdez and Juan Cristoval Romero purchaser, all residents of the county of Santa Fé, Territory of New Mexico, present owners and claimants of the Cuyamungue tract of land, in said county, would respectfully state to you that, in the year 1731, Bernardo de Sena, Thomas de Sena, and Luis Lopez petitioned Juan Domingo de Bustamante, then governor and captain general of the kingdom of New Mexico, under the crown of Spain, for a grant of the surplus land in the abandoned Pueblo of Cuyamungue, said petition was duly presented, and being fully considered by said governor a grant was made to said petitioners on the 2d day of January, 1731, to the tract called Cuyamungue, situate in the present county of Santa Fé, Territory aforesaid, and described and bounded as follows, to wit: On the north by a house of Lazaro Trujillo, on this side of the river; on the south by an arroyo, two mounds of blue stone, and a cottonwood tree on the said river of Cuyamungue; on the east by some hills and the road that leads to the Pueblo of San Francisco de Nambé, and on the west by some hills and forests on the other side of the Cuyamungue River, as is designated in plat marked B, accompanying this petition. All of which points and boundaries are well-known landmarks in said county of Santa Fé. The said grant was made to the said grantees in fee, and was duly taken possession of by said grantees in accordance with the forms of law then in force on the 22d day of January, 1731, and ever since that time the said grantees, and their heirs and legal representatives, have held quiet and peaceable possession thereof without any adverse claim of any kind whatsoever.

The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about five thousand acres. Nor can they furnish an accurate plat of survey as no survey has been made of the same, but herewith append a plat of said grant as accurate as possibly can be made from the maps and known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map.

The original grant is herewith presented marked A, and is begged to be made a part of this petition, to be referred to whenever necessary.

Claimants present this, their said claim, before you, under the act of Congress, approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and respectfully ask approval and confirmation of their said claims to the legal representatives of the original grantees.

SAMUEL ELLISON,
Attorney for Claimants.

Sr. Gouernr. y Cappn. Genl.:

Bernardino de Sena, Thomas de Sena, Luis Lopes, vecinos desste reyno, ante Vssa. parasemos en la mas bastante forma que en derecho aya lugar y al nustro conbenga, y dezemos: que rregistramos las demasias de tierras que ay en el pueblo despoblado de Cuyamungue, por realengas, yermas, y despobladas, desde donde acaban los linderos de el pueblo de Tesuque, hasta donde empiesan las mersedes de Lazaro Trujillo, y de los hijos de Juan de Mestas, y dhas. mersedes se a de servir Vssa. de hasernosla, en nombre de su magestad, para nosotros y nuestros subsesores, para cria de ganados mayores y menores y caballadas, de una y otra banda del rio, y desde el barranco de dho. pueblo de Cuyamungue hasta las lomas de el camino de Nambe, con zitazion de los partes, y con la calidad de poblarlas dentro de el termino de la ley, por todo lo qual y lo mas que alegar podemos y a nuestro favor haga que damos por espresado.

A Vssa. pedimos y suplicamos con el mas profundo rendimto. sea mui servido de mandar hazer como llebamos pedido, en que resiveremos bien y merzed con justicia. Juramos es de nuestro escripto en toda forma, por no ser malizioso protestamos costas y en lo necessario, &c.

BERNARDINO DE SENA.
THOMAS DE SENA.
LUYS LOPES.

En la villa de Sta. Fee, en dos dias del mes de Henero de mill setes. y treynta y un ans. Ante el Sr. Genl. Dn. Jn. Domingo de Bustamte. govor. y capn, general de este reyno de la Nueba Mexico, y castellano de sus fuerzas y presidios por su magd., la presentaron los contenidos en ella.

AUTTO.

Y por su señoria vista la hubo por presentada en quanto a lugar en derecho y en atenzion a lo que los suplicantes piden en su escripto les haria e hizo la merzed de tierras q. expressan en nombre de su magd., y para ello el alcalde mayor de la villa nueba de Santa Cruz haga zitazn. en forma a los yndios del pueblo de Tezuque y a los herederos de Jn. de Mestas y Lararo Trujillo, y de mas vezinos ynmediatos, para que si tienen q. contradezir lo hagan, q seran oydos y administrara justizia; y de no haber perjuizio ni contradizn. alguna, el dho. alcalde mayor les dara a los suplicantes la pocision real, la qual apprehenderan señalando linderos y poniendo majoneras; lo qual executera dho. alcalde mor., poniendolo por diligenzia al pie de este scripto con toda claridad. Asi lo proveyó, mando y firmo su sria. por ante me el presste. secretario de govn. y guerra.

JUAN DOMO. DE BASTAM'TE.

Ante mí.

ALPHONSSO RAEL DE AG'LAR,
Secr'o de g'n y gu'a.

En el pueblo de San Diego de Tesuque, en veinte y dos dias del mes de Henero de mill setecientos y treinta y un años, yo, Domingo Vixil, theniente de alcalde maior de la villa nueba de Santa Cruz y su jurisdicion, en execusion y cumplimiento del auto proveido del sr. gouerdor. y cappn. genl. Dn. Juan Domingo de Bustamte. vine á este dho. pueblo, y estando en el hice juntar á todos los Indios, gouernador y capitanes, a los quales hice la citacion que dho. señor me hordena y manda, leiendole el referido auto, dandoselo a entender si tenian que contradecir alguna cossa sobre la merzed de tierras que dho sr. gouernador le hacia a Bernardo de Sena que lo hiciesen ante mi libremte. que serian oydos en justicia. Y estando enterados del contexto del referido autto dijeron todos juntos y cada una de por si que no tenian que contradecir cosa alguna, por que no les perjudicaba en manera alguna. Y de la misma forma zite a Baltasar Truxillo, Lasaro Truxillo y los herederos de Juan de Mestas, leiendoles la rreferida merzed, y estando enterados de su contenido dijeron que no tenian que pedir ni contradecir cossa; en contrario por no perjudicarles la referida merzed hecha á fabor de Bernardo de Sena. En cuia conformidad y en virtud de lo mandado por dho ssr. gouernador y capitan genl. passe yo, dho teniente de alcalde maior, con los testigos de mi asistencia, al pueblo de Cuiamungué y rreconociendo los linderos del pueblo y tierra de Tesuque, que llegan hasta un arroyo que baja de oriente a poniente hasta el rrio de Cuiamungue, adonde esta un alamo y en dho arroia, a un lado estando dos mojoneras de piedras azules, uno en un lado y otro de otro, poco mas arriba de dho arroyo, i haciendo la misma dilijencia con las tierras que lindan por la parte del norte, que son de Lazaro Trujillo, quien se haillo presente, y estandolo tambien el dho Bernardo de Zena, le coji de la mano y le pasee por dhas tierras, arranco yervas, tiro piedras, y haciendo las demas zeremonias que el derecho dispone se hagan en señal de posesion; la qual le di de dhas tierras que cojen por la parte del norte en frente de una casa de Lazaro Trujillo de esta banda del rrio; por la p'te del sur con dho arroio piedras azules y el alamo que esta en el rrio de dho. Cuiamunmungue; por el oriente con unas lomas y camino que va del pueblo de San Fraco. de Nambe, y por el poniente con unas lomas y monte que esta de la otra pte. del rrio de Cuiamungue. Todo lo qual se hizo y executo, y aprehendio la posession rl. quieta y pacificam'te, sin contradicion alguna; y para q. conste lo firme con los testigos ynfraescritos de me asistencia; fha. ut supra.

DOMINGO MONTES VIGIL,
Jues Receptor.

Testigo de assistta.: FRANCO. VALDEZ.
Testigo de assistta.: BARTOLOME TRUXILLO.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Yo el infrascrito escribano de la corte de pruebas en y por el condado de Santa Fé, en el Territorio de Nuevo Mejico, certifico que hoy, el dia veinte de Julio, A. D. 1868, han sido enrregistrados por mi los antecedentes documentos ó escritos en en libro letra "D," paginas 501, 502, 503, y 504, de registros de documentos de tierras, etc., el cual es tenido en esta oficina con tal objecto.

En testimonio de lo cual pongo mi nombre y el sello de la corte de pruebas de dicho condado en Santa Fé, Nuevo Mejico, hoy el dia 20 de Julio, A. D. 1868.

[SELLO.] TRINIDAD ALARID,
Escribano de la Corte de Pruebas y ex-officio Registrador.

To his excellency the governor and captain general:

We, Bernardino de Sena, Thomas de Sena, and Luis Lopez, residents of this kingdom, appear before your excellency in due form of law, and say that we register the surplus land in the abandoned pueblo of Cuyamungue as royal, public, and uninhabited from where the boundary line of Tesuque terminates to where the grants of Lazaro Trujillo and the children of Juan de Mestas commence, and that your excellency will be pleased to make said grant, in the name of His Majesty, to us and to our successors, for the raising of all kinds of live stock, on both sides of the river, and from the bluff of the pueblo of Cuyamungue to the hills of the Nambé road, by citation of the parties, with the condition to settle the same within the time prescribed by law. In consideration of all which and all else we might allege favorable to us, we give as if expressed. In view of all which we also pray your excellency with the most profound humility to be pleased to order as we have requested, whereby we will receive benefit, favor, and justice, and we declare this our petition to be in due form and without dissimulation, and as may be necessary, &c.

BERNARDINO DE SENA.
THOMAS DE SENA.
LUIS LOPEZ.

DECREE.

In the village of Santa Fé, on the 2d day of the month of January, 1731, before his excellency Juan Domingo de Bustamante, governor and captain general of this kingdom of New Mexico, its forces and garrisons, castellan of His Majesty, this petition was presented by the parties thereto, and the same being seen by his excellency, he treated the same as before him, so far as the law contemplates; and in attention to the prayer of the applicants in their petition, he made to them the grant of land mentioned by them, in the name of His Majesty. Therefore, the chief alcalde of the new village of Santa Cruz will notify the Indians of the pueblo of Tesuque and the heirs of Juan de Mestas, and Lazaro Trujillo, and all other adjoining citizens, in due form, in order that they may make objections, if any they have, and be heard in justice administered; and if there be no injury nor objection whatever, the said chief alcalde will give unto said petitioners the royal possession, which they shall take by designating boundaries and placing landmarks; which said chief alcalde shall state clearly in writing at the foot of this decree. Thus his excellency provided, commanded, and signed before me, the present secretary of state and war.

JUAN DÓM. DE BUSTAMANTE.

Before me:

ALPHONSO RAEL DE AGUILAR,
Secretary of State and War.

In the pueblo of San Diego de Tesuque on the 22d day of the month of January, 1731, I, Domingo Vigil, lieutenant chief alcalde of the new village of Santa Cruz and its jurisdiction, in execution of, and compliance with, the decree rendered by his excellency Juan Domingo de Bustamante, governor and captain general, arrived at said pueblo, and being therein, I caused all the Indians, governor, and captains to assemble, and notified them of what his excellency ordered and commanded, by reading to them the said decree, giving them to understand that if they

had any objection whatever to make to the grant of land made by his excellency, the said governor, to Bernardo de Sena, to make it to me freely, that they would be heard in justice; and being informed of said decree, they jointly and severally said that they made no objection whatever, and that it did not in any wise injure them. In the same form I cited Baltasar Trujillo, Lazaro Trujillo, and the heirs of Juan de Mestas, and reading to them the said grant, and they being informed of the contents thereof, they said that they had nothing to ask or objection to offer against said grant, as the said grant, as made in favor of Bernardo de Sena, did not injure them. In conformity therewith, and by virtue of the order of his excellency the governor and captain general, I, the said lieutenant chief alcalde, proceeded in company with my attending witnesses to the pueblo of Cuyamungue, and having examined the boundaries of the pueblo and the lands of Tesuque, which reach to an arroyo that comes down from the east to west to the river of Cuyamungue, where there is a cottonwood tree, and on said arroyo there are two mounds of blue-stone, one on one side and the other on the opposite side thereof, a little above said arroyo; and observing the like proceedings as to the boundaries of the land on the north, which are those of Lazaro Trujillo, who was present, as also the said Bernardo de Sena, whom I took by the hand and conducted him over said lands; he pulled up herbs and threw stones, and performed all other ceremonies as provided by law in proof of possession, which I gave him of said lands, which reach on the north to in front of a house of Lazaro Trujillo; on this side of the river on the south by said arroyo blue-stones and cottonwood tree on the said river of Cuyamungue; on the east some hills and the road that leads to the pueblo of San Francisco de Nambé, and on the west some hills and forests on the other side of the Cuyamungue River; all of which was done and executed, and he took the royal possession thereof quietly and peaceably, without any molestation; and in testimony whereof I sign this with the undersigned attending witnesses, date as above.

DOMINGO MESTAS VIGIL,
Special Justice.

Attending witness: BARTOLOME TRUJILLO.
Attending witness: FRANCO. BALDEZ.

The above and foregoing is a correct translation made by me of the muniment of the Cuyamungue grant, to the best of my knowledge and belief.

SAML. ELLISON.

SANTA FÉ, NEW MEXICO, *August* 10, 1871.

Sworn to and subscribed before me this August 10, 1871.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, August 31, 1871.

The foregoing translation having been by me compared with its original in Spanish, and found correct, the same is hereby adopted.

DAV. J. MILLER,
Translator.

BERNARDINO DE SENA ET AL.

CUYAMUNGUE TRACT.

JOSÉ RAFAEL MESTAS, being by the surveyor general duly sworn, on his oath declares:

Question. What is your name, age, residence, and have you any interest in the private land-claim now here pending for the tract of land situated in Santa Fé County, New Mexico, purporting to have been granted in the year 1731 to Bernardino de Sena, Tomas de Sena, and Luis Lopez by the Spanish government?—Answer. My name is José Rafael Mestas; my age is sixty years; I reside at the town of Pojoague, in this county, and have no interest in the tract of land referred to.

Q. Do you know the track of land referred to of Cuyamungue? If so, state how long you have known it, what are its boundaries, whether it is settled upon and cultivated, and, if so, how long and by whom?—A. I know the land known as the Cuyamungue tract, and have known it all my life, having been born upon the place. Of the boundaries I do not know that on the north, but that on the east I have always understood to be where there stands a landmark of stone in the prairie, said to be the dividing line between this grant and that of the Tesuque Indian pueblo, on the south the Arroyo de Tio Luis, and on the west the hills and woods just beyond the Cuyamungue Creek. The land has always, since I have known it, been occupied and cultivated, and is now occupied and cultivated; there now residing upon and cultivating the land Juan Cristoval Romero, John W. Conway, and various other persons renting land.

his
JOSÉ RAFAEL + MESTAS.
mark.

Witness: DAV. J. MILLER.

Sworn to and subscribed by said Mestas before me this September 25, 1871.

T. RUSH SPENCER,
Surveyor General.

JOSÉ LIONICIO JEMENEZ, being sworn by the surveyor general, on his oath declares:

Question. What is your name, age, and place of residence, and have you any interest in the land-claim now here pending claimed under an alleged grant, here present, purporting to have been made in the year 1731 by the Spanish government to Bernardino de Sena, Tomas de Sena, and Luis Loper for a tract of land in the county of Santa Fé, known as the Cuyamungue tract?—Answer. My name is José Lionicio Jemenez; my age is forty-one years; I reside at the town of Tesuque, in Santa Fé County, and I have no interest in the tract of land referred to.

Q. Do you know the boundaries and extent of the tract in question, whether it has been and is occupied and cultivated, and by whom? If so, state what you know in the premises.—A. I know the tract in question and its boundaries and extent from having often heard them stated by my father and grandmother and others, and from having all my life known the land. The boundary on the north I thus understand to be a rocky hill; on the east a large stone mound erected on the side of the Nambé road; on the south the land of the Indians of the pueblo of Tesuque, and on the west the top of the dividing ridge between the Cuyamunge and Del Norte Rivers. The extent of the grant is, I calculate,

from east to west about ten, and from north to south about two and a half miles. The land has always been occupied and cultivated since I have known it, formerly by Vicente Valdez and his brothers, and Felipe Sena, and is now occupied and cultivated by Juan Cristoval Romero, John W. Conway, and others.

his
JOSÉ LIONICIO + JEMENEZ.
mark.

Witness: DAV. J. MILLER.

Sworn to and subscribed by said Jemenez before me this September 25, 1871.

T. RUSH SPENCER,
Surveyor General.

BERNARDINO DE SENA ET AL.

CUYAMUNGUE TRACT.

This case was filed in this office August 11, and at the request of the present claimants of the land was set for trial for September 25, 1871. The title papers are comprised in one document, being the original muniments in the grant, consisting of—

1. The petition of Bernardino de Sena, Tomas de Sena, and Luis Lopez to the governor and captain general of the province of New Mexico, praying for a grant to a piece of the royal domain at the abandoned Indian pueblo of Cuyamungue for the raising of horses and other live stock.

2. The decree of the governor and captain general, Juan Domingo de Bustamante, dated at Santa Fé, January 2, 1731, granting to the petitioners the land prayed for by them, and directing the chief alcalde of Santa Cruz to summon the Indians of the pueblo of Tesuque and other adjoining occupants of the soil, and ascertain from them whether the making of this grant would injuriously affect any of them, and, if not, then to place the grantees in formal possession of the land.

3. The act of possession executed by the lieutenant chief alcalde of Santa Cruz, dated at the pueblo of Tesuque, January 22, 1731, certifying that he had duly summoned the people and authorities of that pueblo and other adjoining settlers, and ascertained from them that no injury would result to any of them from making the grant, and that thereupon he duly placed the grantee, Bernardino de Seña, in possession, stating the boundaries of the land—as, on the north, to in front of the house of Lazaro Trujillo; on the south, the thereinbefore-described arroyo, blue stones and cottonwood tree; on the east, the hills of the Nambe pueblo road; and on the west, some hills and a wood beyond the Cuyamungué River.

The signature to the granting decree, purporting to be Governor and Captain General Bustamante's signature, has been compared with others of his found among the old Spanish archives of this office, and is believed to be genuine.

The tract of land in question, known as the Cuyamungué grant, is situated within the present county of Santa Fé, and embraces, according to the petition and plat presented to the surveyor general by the claimants, of about five thousand acres of land.

The ancient Indian pueblo of Cuyamungué referred to in this grant is known to be extinct. The governor and captain general, in his granting decree, and the officer executing the same, alike ignored the existence of any such pueblo when notifying the adjoining settlers to make objec-

tion, if any they had, why the land at the "abandoned pueblo of Cuyamungué" should not be granted to the applicants therefor. There is no evidence on file in this office that that pueblo ever held a grant for land; indeed, there is none that it ever existed, except in the form of incidental reference occasionally met among the old archives.

At the time of the making of the grant the record shows there was no objection interposed thereto, though formal opportunity was afforded parties interested for making known any they might have had. At the investigation before the surveyor general no objection was made to his approval of the concession, and the testimony then presented shows the present claimants to have been and to be in quiet and peaceable possession of the land, and to have occupied and cultivated the same for at least the last half century.

The land in this case was applied for to the governor and captain general by Bernardino de Sena, Tomas de Sena, and Luis Lopez, and was by him granted to them in equal interest, and the chief alcalde was authorized and directed to place them in possession. There appears no subsequent change or modification in the application or in the granting decree, wherefore it is deemed reasonable to conclude, in order to account in a rational way for the alcalde's ignoring the grantees, Tomas de Sena and Luis Lopez, in his record of the execution of the grant, that in that act he held as sufficient the presence of the principal of the grantees, Bernardino de Sena, and accepted and dealt with him as the representative of his two associates, and thereby intended to legally place, and did so place, the three grantees equally in possession of the land, this manner of instating a community of grantees being as it was usage and custom.

The grant in this case is deemed and held by this office to be a good and valid one under the Spanish and Mexican laws, usages, and customs, and the treaty of Guadalupe Hidalgo, and is hereby approved and recommended for confirmation to the legal representatives of Bernardino de Sena, Tomas de Sena, and Luis Lopez, with the limits and boundaries stated in the act of possession therein, and a transcript of all the papers in the claim is herewith transmitted to the Congress of the United States for its consideration and action in the premises.

T. RUSH SPENCER.
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 15, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 11, 1871.

The foregoing transcript is a correct copy of all the papers in private land-claim No. 54, in the name of Bernardino de Sena *et al.*, on file in this office.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim, reported as No. 55, known as the Encinas grant made to Juan Bautista Valdez on July 5, 1814. Approved by the Surveyor General, November 16, 1871.

JUAN BAUTISTA VALDEZ, DECEASED.

UNITED STATES OF AMERICA, *Territory of New Mexico.*

To the Hon. T. R. Spencer, United States Surveyor General for the Territory of New Mexico:

Your petitioners, José Luis Valdez, José Francisco Baldez, Maria Ygnacio Baldez, Manuel Antonio Baldez, Mariano Baldez, Pedro Baldez, and Ramon Garcia, residents of the county of Rio Arriba, Territory of New Mexico, respectfully represent that they are the claimants and owners in fee of a certain tract of land situate, lying, and being in the said county of Rio Arriba, Territory aforesaid, known as the Encinas grant, and bounded on the east by a mound in the puertecita that looks toward the Joya, and on the west, a serrito, in the cañada called the Corrales; on the north, some permanent stones, and on the south, the summit of the mountain, as is designated in plot marked A accompanying this petition, all of which points and boundaries are well-known land-marks in said county of Rio Arriba, and the said petitioners claim a perfect title to said lands as the heirs and legal representatives of Juan Baldez, to whom the original grant was made, and was placed in possession of said lands by the proper authority on the 5th day of July, 1814, according to the decrees, usages, and custom of the Spanish government at that time in force.

The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about 20,500 acres. Nor can they furnish an accurate plat of survey, as no survey has been made thereof, but herewith appended a plat of said grant as accurate as can possibly be made from the well-known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map. The said grantee was legally placed in possession of said land, and said claimants and petitioners know of no other claimants to said grant, and the same has been, by the said grantee and his said heirs and legal representatives, occupied from the date of said grant down to the present time. The original grant is now on file in the office of the surveyor general of New Mexico, a certified copy of which accompanies this petition, and is begged to be made a part thereof, to be referred to whenever necessary. Claimants present this their said claim before you under the eighth section of the act of Congress approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and respectfully ask confirmation by you of their said claim.

SAM'L ELLISON,
Attorney for Claimants.

En este puesto de S'to Tomas, hapostol de Aiquiu, en sico dias del mes de Julio de mil ocho si sientos catorze, ante me el alcalde mayor del cuerpo de alluntamieto y del pueblo y sus distritos, D. Pedro Ygnco. Gallego, conparecio D. Juan Baldez, manifestandome la merce rial de su M., que Dios guarde, y asiendome cargo de dha mese me pidio en nonbre de S. M. pasara a dho paraje ha reconose las q'e pasaba; y abiendola

reconosido alle sufisiete para q'e se matubie con su familia y abie dome pedido dho poblador para un sitio en el paraje de Los Ensinos, que comunmente le llaman en el Rillo Puerco, le ysiera yjuela separda; y son sus linderos por el oriete una mojonera en el puertisito que mira para la Jolla; y por el poniente un serito qe. le llaman en la Cañada de los Corales; por el norte unas piedras estables, y por e sur las cunbres de la sixa, y se las de libes de senso tributo y ypoteca u otra qalesquier agenasion, para qe. las gose y pueda libremente canbiarlas, benderlos, enagenarlas, y tanbie pueda gosarlas con libre y general adeministrasion ynter pongo mi autiridad judicial para * * * * * [torn] * * * * * por resetoria con los testigos de mi assistensia, a falta de escribano rial y publico, que no lo hai en esta reino ni en las distansias qe. el derecho prebiene; y ba en papel comun. Firmole el otorgante con migo y los de mi assistensia e dho. dia, mes y año; qe. de todo doy fe.

PEDRO YGNCO. GALLEGO,
MARCOS DELGADO, *Secretario.*

JUAN BAUTISTA BALDEZ.
Assa: SILBESTRE TRUGILLO.+

At this place of the Apostle Saint Thomas of Abiquiu, on the 5th day of the month of July, 1814, appeared before me, Pedro Ygn. Gallego, chief alcalde of the ayuntamiento, the pueblo, and its districts, Juan Baldez, and exhibiting to me the royal grant of His Majesty, whom may God preserve, and delivering to me said grant, he requested me, in the name of His Majesty, to proceed to said place and examine the land he occupied, and, having examined said place, I found it to be sufficient to support him and his family; and the said settler having requested that I issue him a separate document for a tract of land at the place commonly called the Ensinas, on the Rio Puerco, the boundaries of which are: on the east a mound in the Puertecito that looks toward the Joya, and on the west a serrito, so called in the cañada of the corrales; on the north some permanent stones, and on the south the summits of the mountain and ——, I gave the same, free of tax, tribute, or hypothecation, or any other class or incumbrance, in order that he may enjoy the same; and that he may freely exchange, sell, or alienate it, and enjoy it with free and general administration, I interpose my judicial authority for * * * * [torn] * * * * * by appointment, with my attending witnesses, in the absence of a royal and public notary, there being none in this kingdom, nor within the distance provided by law, and this is extended on common paper, signing with me the grantee, and those of my attendance, on the said day, month, and year; to all of which I certify.

PEDRO YGN'CO GALLEGOS.
MARCUS DELGADO, *Secretary.*

JUAN BAUTISTA BALDEZ.
Asis: SILBESTRE TRUJILLO.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, June 30, 1871.

The foregoing translation filed in the case having been by me compared with its original in Spanish and found correct, the same is hereby adopted as the official translation in the case of Juan B. Valdez, deceased.

DAV. J. MILLER, *Translator.*

JUAN BAUTISTA VALDEZ.

ENCINAS.

MELQUIADES MONTAÑO, being by the surveyor general duly sworn to depose in this private land-claim, on his oath declares:

Question. What is your name, age, and residence?—Answer. My name is Melquiades Montaño, my age is forty years, and I reside at Tierra Amarilla, in Rio Arriba County, New Mexico.

Q. Do you know a tract of land in Rio Arriba County, known as the Encinas tract; and if so, state its precise locality and its boundaries.—A. I know such a tract; it is situated some six or eight leagues west of the Rio del Norte, and lies in what is known as the Faustin Valley. The tract I am acquainted with, but its specific boundaries I cannot state.

Q. Who have been recognized as the owners of the land since you have known it?—A. José Antonio Valdez.

Q. How long have you known the land as in possession of said José A. Valdez?—A. About twenty years.

Q. Have you any interest in this claim?—A. I have none whatever

his
MELQUIADES + MONTAÑO.
mark.

Sworn to and subscribed before me this July 3, 1871.

T. RUSH SPENCER,
Surveyor General.

JOSÉ ANTONIO MARTIN, being in like manner sworn, on his oath declares:

Question. What is your name, age, and residence?—Answer. My name is José Antonio Martin, am sixty-four years of age, and reside at Cañon del Riaño, in Rio Arriba County.

Q. Do you know the tract of land called the Encinas? if so, state how long you have known it, where it is situated, and what are its boundaries.—A. I know the land; it is situated in Rio Arriba County, New Mexico; I have known the place since the year 1826, and its boundaries are: on the east, the Purtecito looking toward the Joya de Perdenal; on the west, the Cerrito de la Cañada de los Corrales; on the north, some rock bluffs, and on the south, the top of the mountain.

Q. Who have had or been in possession of the land in question since you have known it?—A. When I first knew the place it was in possession of the four children of the grantee, Juan Bautista Valdez, to wit: the eldest, José Miguel; the next, Francisco; the next, José Antonio, and the next a daughter, Antonia Rosa Valdez; and it has always been in their possession, and in the possession of those holding under them.

Q. Have you any interest in this claim?—A. I have none at all.

his
JOSÉ ANTONIO + MARTIN.
mark.

Sworn to and subscribed before me this July 3, 1871.

T. RUSH SPENCER,
Surveyor General.

JOSÉ MANUEL GALLEGOS, being by the surveyor general sworn to depose in the case of this private land-claim, on his oath declares:

Question. What is your name, age, and residence?—Answer. My name is José Manuel Gallegos, my age is fifty-six years, and my place of residence here at Santa Fé.

Q. Do you know the signature of Pedro Ignacio Gallegos and Marcos Delgado? and if so, please state, after examining the document in Spanish now handed you purporting to be the act of possession in this case and to bear the signature of said Gallegos and Delgado, whether those signatures are, in your opinion, genuine.—A. I know their signatures; the former, Gallegos, was my father, and the latter, Delgado, was a neighbor of my father at the town of Abiquiu, and I am satisfied, on examination of the document referred to, that the signatures it bears are genuine.

Q. What official positions did your father hold and exercise, if any, about the year 1814?—A. In the year 1814 I was born, but some years afterwards, when I became large enough to discern and comprehend, I learned, by hearing stated, that my father was about that time, 1814, the alcalde at Abiquiu, and I know that he was afterwards colonel of militia and member of the department assembly of New Mexico, and at various other times held and exercised sundry official positions.

Q. Have you any interest in this claim?—A. I have none whatever.

J. MAN'L GALLEGOS.

Sworn to and subscribed before me this July 18, 1871.

T. RUSH SPENCER,
Surveyor General.

UNITED STATES OF AMERICA, *Territory of New Mexico:*

This day personally appeared before me, the undersigned, clerk of the United States district court for the first judicial district of the Territory of New Mexico, Luis Baldes, who, being duly sworn by me, on his oath states: That he is one of the present owners of the grant of land situated in the county of Rio Arriba, Territory of New Mexico, now pending in investigation in the office of the surveyor general of New Mexico, made to Juan Bautista Baldes by the Spanish government, as appears from the original act of possession on file in the surveyor general's office, dated July 5, 1814, and that the original muniment referred to in said act of possession, to wit, the granting decree of the Spanish government and captain general, is missing; and further declares that he has made due diligent search for said missing documents, and has been unable to find the same or obtained any information concerning it; wherefore, he believes the same has been mislaid, lost, or destroyed, so that it cannot now be procured.

his
LUIS + BALDES.
mark.

Subscribed and sworn to before me this 17th day of July, A. D. 1871.

[SEAL.] WM. BREEDEN, *Clerk.*

JUAN BAUTISTA VALDEZ, DECEASED.

ENCINAS TRACT.

The muniment in this case was deposited in this office January 25, 1871, by Luis Valdez, as one of the heirs and claimants under the original grantee, Juan Bautista Valdez, but was subsequently withdrawn by him, and on the 12th of July ensuing was filed, accompanied with the required notice to the surveyor general, sworn translation of the claim, and plat of land covered thereby.

The land claimed in this case is situated in the present county of Rio

Arriba, and, according to the notice and plat presented to the surveyor general, the tract embraces about 20,500 acres.

The document in virtue of which this claim is presented, is a single paper, dated July 5, 1814, being a certificate of the chief alcalde of the jurisdiction of Abiquiu, whose signature thereto is proved by testimony, to be genuine, and who in like manner is shown to have been the acting alcalde of that jurisdiction on or about the time of the date of said document. The chief alcalde in this document states and certifies that Juan Baldez had exhibited and delivered to him a royal grant to a piece of land at the place called the Encinas, on the Puerco River, and that thereupon he requested him to proceed to the spot, examine the land, place him in possession thereof, and issue to him a sub-grant (hijuela) for the same, which he states he proceeded to do, and did do accordingly.

From this statement and certificate it appears that Valdez held for this land a grant from the Spanish government, and that it was turned over to the chief alcalde at the time he was placed in possession of the property. The grant so delivered is in no way described by the officer receiving it, nor is the motive for the delivery stated. It appears thereafter to have disappeared from the possession of its more proper holders—the grantee and his representatives. Search for it has been made among the archives of the former government on deposit in this office, and no grant is found among them in that name; and Luis Valdez, acting as the principal of the present claimants, makes and files affidavit that after diligent search by him for the missing original concession, he was unable to find or obtain any information concerning the same, and believes it permanently lost or destroyed. There is not in this office, or so far as known elsewhere accessible, any records of the Spanish government in this province wherefrom it might be ascertained whether such a grant was ever made, and, if so, when, and by what authority. In the absence of this concurrent testimony, and in view of the proven continued possession and occupancy of the land in question, for a long time back, and up to this day, by the legal representatives of Juan B. Valdez, it is held by this office that it must be concluded there was a grant, and that they claimed and held the land thereunder.

This claim being, as against the public domain of Mexico, a subsisting claim for land held and occupied at the date of the treaty of Guadalupe Hidalgo of 1848, and no opposition having been made known to the surveyor general to his approving said claim, the same is held by this office to be a good and valid one against the domain of the United States, and is recommended for the confirmation of the Government of the United States to the legal representatives of Juan Bautista Valdez, deceased, and a transcript of all the papers in the case is herewith transmitted for the action of Congress in the premises.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 16, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 11, 1871.

The foregoing transcript is a correct copy of all the papers in private land claim No. 55, in the name of Juan Bautista Valdez, deceased, on file in this office.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land claim, reported as No. 56, known as the Gotera grant, made to Juan de Dios Peña, and others, May 18, 1830. Approved by the surveyor general of New Mexico, November 25, 1871.

JUAN DE DIOS PEÑA ET AL.

UNITED STATES OF AMERICA, *Territory of New Mexico.*

To the Hon. T. Rush Spencer, United States surveyor general for said Territory.

Your petitioners, the present claimants of a certain tract of land hereinafter described, residents of the county of Santa Fé, Territory of New Mexico, respectfully represent that they are the claimants and owners in fee of a certain tract of land lying and situate in the county of Santa Fé, in said Territory, and bounded and described as follows, to wit: On the east the Creston of Maragua; on the west the public lands; on the south a Creston de Piedra, a small round hill in the valley of the Cañada de la Baca, and a mound of stone; and on the north two Peñas Sueltas at the foot of the hill—the Cueva, Creston Colorado, Cañada Colorado, and Arco—as is designated on plat marked A accompanying this petition, all of which points are well-known land-marks in said county of Santa Fé, and are the boundaries designated by Domingo Fernandez, justice of the peace of the city of Santa Fé, department of New Mexico; and the said petitioners claim a perfect title to said lands as descendants and purchasers of Juan de Dios Peña, Ygnacio Ortiz, sr., Teodosio Quintana, Jesus Ma. Alarid, Jesus Ma. Peña, Ramon Brito, and Juan Lovato, to whom the original grant was made in the year 1830, by the governor and territorial deputation and ayunta miento, by authority of the laws, usages, and customs of the republic of Mexico then in force.

The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about 490 acres. Nor can they furnish an accurate plat of survey, as no survey of said lands has been made, but herewith append a plat of said grant as accurate as can possibly be made from the maps and well-known metes and bounds above stated, and which is supposed to be accurate enough to be placed upon the general map. The petitioners and claimants know of no other claimants to said lands. The said grantees were placed in legal possession of said land, and held by them and their representatives from the date of said grant to the present time. The original grant is hereto annexed, and prayed to be made a part of this petition, to be referred to whenever it may be necessary, as also a certified translation of said grant. Claimants filed this their said claim before you under the act of the United States Congress (section eighth) approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and respectfully ask confirmation by you of said claim.

SAM'L ELLISON,
Attorney for Claimants.

EXMO. SOR: Los ciudadanos Juan de Dios Peña, Ygnacio Ortiz, sr., Teodosio Quintana, Jesus Ma. Alarid y Jesus Ma. Peña, Ramon Brito, y Juan Lovato, vecinos de esta capital, ante V. E. con el devido respeto se presentan y dicen: Que hayandose un paraje conosido con el nombre de La Gotera, dos mil vs., poco mas ó menos, abajo de Maragua, terreno valdio, y hasta la fha sin dueño que lo cultive y posee, y encon-

trandose los impetrantes en el caso de verificarlo, apropiandose el dro. que como cuidadanos mejicanos les corresponde, ocurren á V. E. para que a nombre de la augusta nacion, á que tienen el honor de dependen, se sirva donarles el espresado terreno, satisfecho V. E. de que los impetrantes al solicitar esta gracia i para haser por medio de sus afames la felicidad que es conseguiente, jamas se olvidarán de proteger en esta parte el recomendable y distinguido ramo de agricultura. Tales son, E. S., los sentimientos de los que respetuosos solicitan, y por los cuales y sus dros. no dudan que V. E. tendra la vondad de fayar tan favorable como se prometen de su conosida rectitud y patrioticos sentimientos, concediendoles igualmente a los impetrantes la gracia de que al tiempo de que se les documenta tal terreno se especifique que la agua con que unicamente se cuenta en el espresado sitio no pueda autoridad alguna haser la estensiva á otros que a los mencionados. Entre renglones Ygnacio Ortiz 1°=Vale. Entre renglones Ramon Brito, Juan Lovato=Vale.

SANTA FÉ, *Abril* 14, 1830.

JUAN DE DIOS PEÑA.
JESUS MA. ALARID.
TEODOSIO QUINTANA.
JESUS MA. PEÑA.
RAMON BRITO.
JUAN LOVATO.

(Quadno. 1° , fo. 1°.)

SORA. DE LA EXMA. DIPUTON. TERRITORIAL DE NVO. MO.,
Sta. Fé, 1° *de Mayo de* 1830.

Por acuerdo de S. E. de 30 de Abril po. po. pase esta instancia al r. ayuntamto. de este capital pa. que informe.

ABREU, *Srio.*

SRIA. DE LA R. AYUNTAMTO. DE ESTA CAPITAL.

En secion de este dia acordo S. Sa. se nombre una comicion pa. q. entienda en el informe que S. E. pide sobre la solicitud precente, ruayendo la comicion en los Sres D. Domo. Fernz. Alc. 2° de esta cuidad, y los tres Regs. D. Grego. Garcia y D. Franco. Archiveque, cuyos sres. se hallan en el partido de Galisteo pa. donde tiene q. marchar el referido Sor. Fernandez.

ORTIZ.
ABREU, *Srio.*

SAN CHRISTOVAL, 12 *de Mayo de* 1830.

YLUSTRE SOR. En virtud de la comision que en union de los dos regidores Dn. Gregorio Garcia y Dn. Franco. Archiveque, se sirvio nombrar V. S. me acocio gl. Dn. Gregregorio luego lo cite y quedo a pasar al parage citado; mas luego lo echo a la espalda, y me ha tenido aguardando hasta el dia al otro. Lo hize buscar en su rancho y no se hayara, y aguardando a uno y otro ha cido la dilacion. Sin embargo de esto dire mi sentir aunqe. siento el que sea solo.

ARTICULO 1°. El tereno de la Gotera que solicitan los impretrantes es valdio, yermo, y sin dueño alguno que represente mejor derecho; aunque havido otros impetrantes de dho. tereno, a los que se le ha negado po S. E. al diputacion teritorial, por el motivo de que se abreven alli los animales.

ARTICULO 2°. El dho tereno is muy ameno, espacioso, y promete fertilidad; tiene agua suficiente a la labranza, siempre que trabajan con anelo

en ponerla la asequia que deven trabajar los ympetrantes, si ce les conceden lo que solicitan.

ARTICULO 3º. Siendo tan encargado en las leyes el fomento de la agricultura de que pende la grandeza y riqueza de los pueblos, no puedo menos que decir que si este beneficio se niega, nunca tendremos ausilios, y siempre estaremos espuestos a la indigencia de la miseria y de la hambre que se padece en estas partes, y las tierras se mantendra valdias, infrutiferas y sin dar probecho alguno.

ARTICULO 4º. No haya por motivo justo para que se les niegue lo que solicitan; el cuanto de los animales ni por esto se deven perjudicar, pues bastante tereno les queda para pastos y aguas libres, las que nunca se les negaran, solo si la que nesesitan para su riego y la otra siembre; la mantrendran suelta, como los animales que anden sueltos; no cobraran daño alguno; fortificaran cerca para su resguardo, con lo demas necesario.

ARTICULO 5º. Dos mil quinientos varas castiyanas solicitan, estas se pueden empesar a contar del lindero de Maragua de abajo; se les mandara poner mojoneras que distingan; tendran ganado bacuno y y bejuno para su mantunencion, no en mucha cantidad para que no se perjudicar los egidros; seran los linderos oriente a poniente donde alcansen las mil varas, y de norte a sur de loma a loma; no coreran animales de manera de que por esto resulte perjuico.

V. S., con la prudencia que acostubra, se sirvera el ver este corto informe y conformarse con el en lo que crea de justicia, acreciendo ó disminullendo sus articulos, dando de mis cortas luces dicimulo por no ser tantas, y ser muy cortas. Fecha ut supra.

DOMINGO FERNANDEZ.

SANTA FÉ, *Mayo* 17 *de* 1830.

Pase el informe anterior q. consta en esta solicitud al sor. gefe politico, para q. este sor. gefe lo haga presente à S. E. la diputacion de este territorio como aprovado ya por este respete. ayuntamto. de esta cuidad, para q. S. E. haga de él los usos que juzgue convenientes. Haciendo los veces de sindico, por estar ausente el regr. ultimo de este cuerpo, conformandose al mismo tiempo esta ayuntamto. con la falta de las firmas de los otros dos individuos q. como compucieron la comicion, por haberse resistido estos en obedecer el acuerdo q. S. Sa. tubo cuando los nombró.

ORTIZ.
M. ABREU, *Srio.*

(Quad'eno 1º fo. 1º.)

SECRETARIA DE LA
EXMA. DIPTON. TERRITORIAL DE N. MEJICO,
Sta. Fé, 18 *de Mayo de* 1830.

En secion extraordinaria de hoy se ha servido S. E. a la solicitud de los impetrantes vajo los terminos y condiciones que espresen los articulos aprovados por el r. ayuntamto. de esta capital en el informe antesedente; y para las consiguientes determinaciones de orden de la insinuada E. corporacion pase esta al alcalde constitucional 1er, nombrado de esta capital.

ABREU, *Srio.*

STA. FÉ, 18 *de Mayo de* 1830.

En virtud del anterior decreto de S. E., y por hallarse mi companiero sumamte. occupado en negs. de la admon. de justicia, se sirvió cometer la

diligencia à que pasase yo a poner en posecion à los solicitantes el terreno conosido en lo antiguo La Gotera, y actualmte. por el de N. Sra. del Pilar, y para la devida constancia le pongo por diligencia q. firmo con testigos de asissá., pr. receptoria, á falta de escribano, que no hay en los terminos de dro. Q. doy fé.

DOMINGŌ FERNANDEZ.

Assa: JESUS RIVERA.
Assa: MIGUEL SENA.

Balga por el sello quarto pa. los años de 1830 *y* 31.—[Rubric.]

En este puesto de N. Sra. del Pilar de Zaragosa, a los veinte y dos dias del mes de Mayo de mil ochocientos treinta: Yo el c. alcalde constitucional 2º, nombrado de la ciudad de S. Franco. de Sta. Fé, acompañado con los testigos de asistencia é yndividuos del pueste de Galisteo, que fueron el Teniente C. Luis Lovato, José Sandoval, Miguel Rodriguez, Ygnacio Chaves, Juan Lovato, Vicente Moya, siendo como a las dose del dia se hisieron presentes las personas de D. J. de Dios Peña, D. Ygnacio Ortiz, D. Teodosio Quintana, D. Juan Ma. Peña y D. J. Ma. Alarid, D. Ramon Brito, y D. Juan Lovato, los que pidiendo el cumplimto del decreto de S. E., aserca de que se les ponga en posecion del terreno indicado, y despues de haverles leydo de berbo a berbo todas las diligencias practicadas, y haviendose comformado con ellas y sus requisitos, promitieron guardar en toda forma lo prevenido en las L. L. de posecion, formar casa, abrir sementera y de consigte. formalizar su serca, en tal virtud immediatamte., asistidos de mi dho alcalde, fueron constituidos personalmte. a tomar la nacional y personal posecion del citado terreno, a los cuales tomé de las manos y les puse en posecion, y ellos haciendo actos de verdadera posecion, dieron voses de alegria, juvilo y contento, diciendo, Vivas ntro. actual presidte, viva la soverana nacion mejicana, aparcieron tirando al aire puñados de tierra, piedras, arrancarron sacate y ramas de arboles, se pasearon por dho. sitio, hicieron otras seremonias y actos de posecion, en señal de la q. dijeron, tomaron de dhas tierras quieta y pasificamte. sin contradicion de persona alguna; y haviendo comensado a medir dho. sitio se le entregaron a D. Juan de Dios Peña quinientas varas, siendo sus linderos de oriente el creston y la puerta de la cañadita; pr. el poniente con la cabeza de la Cañada de la Baca; por el sur un creston de piedra; por el norte dos peñas. sueltas al pie de la loma. Sigue la medida y se le entregaron quinientas varas a D. Ygnacio Ortiz, que linda por el oriente con tierras de Peña; por el poniente con tierras de Quintanas; pr. el sur con una loma pequeña redonda, en el mero plan de la Cañada de la Baca; por el norte la cueva. Se le entregaron quinientas varas a D. Teodosio Quintana, lindantes por el oriente con D. Ygnacio Ortiz; pr. poniente con tierras de D. Jesus Ma. Peña; por el sur una sta. cruz que esta en la loma; por el norte una tetilla colorada donde haze puertesito. A. D. Jesus Ma. Peña se le hentregaron quinientas varas, lindantes pr. el oriente con tierras de Quintana, por el poniente con tierras de * * *

Balga por el sello quanto pa. los años de 1830 *y* 31.—[Rubric.]

Dn. Jesus Ma. Alarid, por el sur una loma pelada, y una mogonera de piedra; por el norte un creston colorado, con varias cuevitas medianas. A D. Jesus Ma. Alarid se le entregaron quinientas varas, lindantes pr. el oriente con tierras de J. Ma Pena; pr. el poniente con tierras de Ramon Brite; por el sur la punta de la loma de la Cañada Colorada; pr. el norte

el [torn] que divide del arco a la parte de arriba. Se le senalaron sien varas al dho. Brito, lindantes por el oriente con D. Jesus Ma. Alarid; por el ponte con tierras de Juan Lovato; pr. el sur con las lomas, y por el norte con el arco. A Juan Lovato sien varas, siendo sus linderos por el oriente con tierras de Ramon Brito, y por el poniente con la tierra valdia que queda abajo; por el sur las lomas, y por el norte el arco, y para que los citados posedores hagan el uso que bien visto les fuere cumplidos que sean los requisitos puestos por la ley, la gozen por si, sus hijos, herederos y subsesores, con franca y gral. admon, y puedan venderla al a persona o personas que les fuere bien visto, a las que les haran entender y saver los requicitos puestos a los merzenados, pa. que les guardan en la misma forma que ellos estan obligados, esento en darla en venta a militar, ni a clerigos, ni a comunidad religiosa, ni a cofradias, pr. ser manos muertas y gen el auto de haserse asi buelva a recaer el dho. sitio a poder de la nacion mejicana, y sea conosido por bienes de realengo aquien ella pertenejen, dando aqui por expresados cuantos requisitos sean nesesarios pa la validacion y firmesa y constancia perpetua de está donacion como prevenidas por dro. Y para la mayor fuerza y vigor me suplicaron los impetrantes ya citados pusiera mi autoridad y decreto judicial, y yo dho. alcalde dije que la interponia e interpuse cto. por dro. me es conferida, y doy fé conoser a los merzenados por personas de buena opinion, de consig'te asendosos en el travajo, y la firmaron conmigo y los de mi asissa, con quienes actuo, pr. notoria falta de escrivano, como llevo dho. arriba, firmandolo tambien los demas de los que se hallaron presentes.

MOST EXCELLENT SIR: The citizens, Juan de Dios Peña, Ygnacio Ortiz, Sr. Teodosio Quintana, Jesus M'a Alarid, and Jesus M'a Pena, Ramon Brito, and Juan Lovato, residents of this capital, before your excellency, with due respect, appear and say that there is a place known by the name of the Gotera, two thousand varas, a little more or less, below Maragua, which is public land, and up to this time without an owner to cultivate and hold the same, and the petitioners being able so to do by availing themselves of the rights which, as Mexican citizens, they enjoy, apply to your excellency, praying that you will, in the name of the august nation to which they have the honor to belong, be pleased to grant them the said land, should your excellency be satisfied that the petitioners will, by obtaining the concession, proceed to enjoy by their own labor and industry the benefits arising therefrom, and that they will ever protect the laudable and distinguished branch of agriculture, for such, your excellency, is the intention of those who present this application, and for which reason, and in view of these rights, they do not doubt but that your excellency, in accordance with your known integrity and patriotic sentiments, will grant their application on as favorable terms as practicable, and will, at the same time, specify that the water on said land shall not, by any authority whatever, be made common to any other person than these petitioners.

Interlined: Ygnacio Ortiz, sr., valid. Interlined: Ramon Brito and Juan Lovato, valid.

JUAN DE DIOS PENA.
JESUS M'A ALARID.
TEODOSIO QUENTANA.
JESUS M'A PENA.
RAMON BRITO.
JUAN LOVATO.

SANTA FÉ, *April* 14, 1830.

(Vol. 1st, p. 1st.)

SECRETARY'S OFFICE OF THE MOST EXCELLENT
TERRITORIAL DEPUTATION OF NEW MEXICO,
Santa Fé, May 1, 1830.

By the action of its excellency of the 30th of April last this petition will pass to the respectable ayuntamento of this capital for its report.

ABREU, *Secretary.*

SECRETARY'S OFFICE OF THE RESPECTABLE
AYUNTAMENTO OF THIS CAPITAL.

In the session of to-day it was resolved by the body that a committee be appointed to investigate and report upon the petition as requested by his excellency, which is composed of Messrs. Domg'o Fern'z, second alcalde of this city, and the aldermen Greg'o Garcia and Fran'co Archibeque, who are now in the precinct of Galisteo, to which place the said Mr. Fernandez will proceed.

ORTIZ, *President.*
ABREU, *Secretary.*

SAN CRISTOBAL, *May* 12, 1830.

ILLUSTRIOUS SIR: By virtue of the appointment which the honorable corporation thought proper to make to me, in connection with the two aldermen, Gregorio Garcia and Francisco Archibeque, I at once notified Gregorio thereof, who said that he would proceed to said place, but failed to attend, and kept me waiting up to this date. I sent to the ranch of the other for him, but he could not be found, and in waiting for both have caused this delay. Nevertheless, I will state my opinion, although I regret that it is of one only.

ARTICLE 1st. The land of the Gotera, for which the petitioners apply, is unoccupied land, and without any owner who can present a better right. Although others have applied for said lands, their application was not granted by the illustrious territorial deputation, for the reason that their animals watered there.

ARTICLE 2d. The said land is very desirable, extensive, and promises fertility, has water sufficient for agriculture, provided they construct properly thereon the acequia, as they should, if their application be granted.

ARTICLE 3d. Agriculture being so highly recommended by the laws, and upon which depends the greatness and wealth of communities, I cannot refrain from saying that if this branch of industry be neglected, we will never acquire sufficient supplies, and will ever be exposed to the indigence, misery, and want which are so much felt in these parts, and the lands would remain wild and unproductive, yielding no profits.

ARTICLE 4th. I do not deem the question relative to animals as being one of sufficient ground for refusing the application of the petitioners, nor will they be troubled by said stock. There are sufficient lands to pasture them on and water free, which will never be denied, except that required for irrigation. The fields should be inclosed by fences or otherwise, so that loose animals cannot damage them, and in no case should the applicants demand damages for injuries done by loose animals.

ARTICLE 5th. The application is for two thousand five hundred Castilian varas, which should be measured from the lower boundary of Maragua. The applicants should be ordered to place landmarks by which said lands may be known. They will have cattle and sheep for

their maintenance, but not in large numbers, and in order that their herds may not injure their pasture lands, the boundary should run from east to west to where the thousand varas reach, and from north to south and from hill to hill; animals should be driven away in a manner so as not to injure them.

Sir, you will please, with your accustomed prudence, receive this short report, and approve such part thereof as you may deem just, and enlarge or diminish its articles, and also pardon my limited ability. Date as above.

DOMINGO FERNANDEZ.

SANTA FÉ, *May* 17, 1830.

The foregoing report will go to the political chief, so that said officers may lay the same before its excellency, the deputation of this territroy, as approved by the respectable ayuntamiento of this city, so that the said respectable body may make such disposition thereof as they may deem proper, I acting as syndic, the junior alderman being absent, and that the ayuntamiento dispense with the want of the signatures of the other two members of the committee, who refused to serve in obedience to the appointment extended to them by this body when they were selected.

ORTIZ, *President.*
ABREU, *Secretary.*

(Vol. 1st, page 1st.)

SECRETARY'S OFFICE OF THE MOST EXCELLENT
TERRITORIAL DEPUTATION OF NEW MEXICO,
Santa Fé, May 18, 1830.

At the extra session of to-day this respectable body has been pleased to grant the prayer of the petitioners under the terms and conditions expressed in the articles approved by the respectable ayuntamiento of this capital, as set forth in the former report, and in order that the same may be properly executed the said honorable ayuntamiento will direct that the application be referred to the first constitutional alcalde of this capital to be carried out.

ABREU, *Secretary.*

SANTA FÉ, *May* 18, 1830.

By virtue of the foregoing decree of its excellency, and my associate being much engaged in the administration of justice, he has been pleased to confide to me the duty of placing the applicants in possession of the land formerly known as the Gotera and now by the name of our Lady of Pilar. In testimony whereof I reduce my proceedings to writing, and sign the same in presence of attending witnesses, as actuary in the absence of a notary, there being none as provided by law, to which I do hereby certify.

DOMINGO FERNANDEZ.

Witness: JESUS RIVERA.
Witness: MIGUEL SENA.

Valid for the fourth seal of 1830-'31.—Rubric.

At this place of our Lady of Pilar, of Saragosa, on the twenty-second day of the month of May, one thousand eighteen hundred and thirty, I, citizen, second constitutionally appointed alcalde of the city of San Francisco de Santa Fé, accompanied by attending witnesses and individuals of Galisteo, who are the citizen Lieutenant Luis Lovato, José

Sandoval, Miguel Rodriguez, Ygnacio Chavez, Jesus Lovato, and Vicente Moya, it being about 12 o'clock of the day, D. J. de Dios Peña, D. Ygnacio Ortiz, D. Teodosie Quintana, D. Jesus Ma Peña, D. J. Ma Alarid, D. Ramon Brito, and D. Juan Lovato appeared in person, and asked for the execution of the decree of its excellency, relative to placing them in possession of said lands, and after having read to them, word for word, all the proceedings had, and they having agreed thereto, and to the conditions thereof, promising to observe fully the provisions of the laws of possession to build houses, open fields, and also to fence in the same: Therefore, I, said alcalde, being present, they were empowered personally to enter into the national and personal possession of said land, and I placed them in possession thereof, and they performed ceremonies of true possession, shouted in joy, pleasure, and contentment, saying long live our president, and long live the sovereign Mexican nation, throwing and scattering handfulls of earth and stone in the air, and breaking branches from trees. They walked over the said tract and performed other ceremonies and acts of possession, in sign of the possession of said lands, which they declared they took possession of peaceably and quietly, without the objection of any person, and commencing to measure said land, there were delivered to D. Juan de Dios Peña five hundred varas, bounded on the east by the Creston and the outlet of the cañada; on the west by the head of the Cañada de la Baca; on the south, a Creston de Piedra; on the north two Peñas sueltas, at the foot of the hill. The measurement being continued, five hundred varas were delivered to D. Ygnacio Ortiz, bounded on the east by the lands of Peña; on the west by the lands of Quintana; on the south a small round hill, in the valley of the Cañada de la Baca; on the north by the Cueva. There were delivered to D. Teodosio Quintana five hundred varas, bounded on the east by [lands of] D. Ygnacio Ortez; on the west by lands of D. Jesus Ma Peña; on the south by a santa cruz on the hill; on the north a Tetilla Colerada, where it forms a Puestisito.

Valid for the fourth seal of 1830 *and* 1831.—Rubric.

To D. Jesus Ma. Peña there were delivered five hundred varas, bounded on the east by the lands of Quintana; on the west by lands of D'n Jesus Ma. Alarid; on the south by a Loma Pelada and a mound of stone; on the north by a creston colorado, with several small cuevitas. To D. Jesus Ma. Alarid there were delivered five hundred varas, bounded on the east by lands of J. Ma. Peña; on the west by lands of Ramon Brito; on the south by the point of the hill of the Cañada Colorada; on the north by the creston that divides the Arco on the upper part. There were assigned to the said Brito one hundred varas, bounded on the east by [lands of] D. Jesus Ma. Alarid; on the west by lands of Juan Lovato; on the south by the hills, and on the north by the Arco. To Juan Lovato one hundred varas, the boundaries thereof being, on the east, the lands of Ramon Brito; on the west, public lands below; on the south, the hills, and on the north, the Arco; and in order that the said possessors may make such use thereof as they deem proper, after the requirements of law shall have been complied with, they for themselves, their heirs, children, and successors may with free and general administration enjoy the same, and may sell it to the person or persons they may see fit, whom they shall inform and give to understand the conditions imposed upon the grantees, in order that they may observe them in the same form as the grantees are required

to do, except not to sell them to the military nor to the clergy nor to religious communities nor religious societies, they being mortmain, and in the act of so doing the said tract shall revert back to the Mexican nation, and be known as public land, to which they shall appertain; giving here, as if expressed, all the necessary requirements of law for the validity, security, and perpetual evidence of this donation, as provided by law, and for the greater force and effect thereof, the aforesaid applicants requesting me to attach hereto my authority and judicial decree, and I, the said alcalde, declared that I would do so, and did so so far as I am authorized by law, and I certify that I know the grantees to be persons of good repute and of industrious habits, and that they signed this with me and my attending witnesses, with whom I act as actuary, from the known want of a notary, as I have above stated, the other persons present signing also.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, Samuel Ellison, do solemnly swear that the foregoing nine pages, and a part of the tenth, is a true and correct translation of the original grant, as presented to me, to the best of my knowledge and belief.

SAML. ELLISON, *Translator.*

Sworn to and subscribed before me this 23d day of March, 1871.

[SEAL.] M. A. BREEDEN,
Deputy Clerk.

OFFICE NEW MEXICO MINING COMPANY,
Santa Fé, August 16, 1871.

DEAR SIR: M. Nasario Gonzales has planted a farm upon the northeastern portion of the "Ortez Mine Grant," a private land-claim confirmed by Congress of the United States, and now owned by, and held in possession by the New Mexico Mining Company, a lawfully incorporated body of which I am resident agent. I am informed that in thus trespassing on the property of the New Mexico Mining Company, he puts forward a certain pretended claim he has on said land, and that he has filed with you papers pretending to be connected with some "grant" he claims to exist and be owned by him, and he asked your investigation and approval thereof. I hereby enter the protest of the New Mexico Mining Company against this action, and ask suspension of any and all proceedings in his favor or in the premises, and that time be given to show the utter invalidity of said claim of said Nasario Gonzales.

Very truly,

W. C. RENCHER,
Agent New Mexico Mining Company.

T. RUSH SPENCER, Esq.,
Surveyor General of New Mexico.

In the matter of the confirmation of the grant of land represented as the "Gotera," and as made to one Juan de Dios Peña *et als.*

To the Hon. T. Rush Spencer, surveyor general of New Mexico:

The New Mexico Mining Company, a corporation duly created and organized under the laws of the Territory of New Mexico, respectfully represents that the above-named grant is void and invalid, and protest against the same being confirmed, for the following reasons:

First. Said pretended grant was not made nor signed by the governor

of New Mexico, at that time a territory or province of the republic of Mexico, as required by law.

Second. The proceedings touching the placing of the grantees in possession by the constitutional alcalde are not signed nor certified to by said officer.

Third. From the testimony adduced on the hearing it does not satisfactorily appear that the conditions prescribed in this pretended grant, as to buildings, houses, fences, and possession, were formally, much less faithfully or strictly, complied with.

Fourth. The testimony is vague and indefinite in that part touching the locality of the grant, one witness testifying the same to be three miles below the town of Galisteo, and the other, two leagues.

Fifth. The so-called grant calls for 2,000 varas, and the grantees, it is claimed, were placed in possession of 2,700 varas.

Sixth. The land asked for in this application is not a part of the United States public domain, and has been set apart therefrom, and the General Land-Office has no power or authority to entertain the application. The pretended grant sought to be confirmed lies almost wholly and entirely within the limits of the "Ortiz Mine Grant," which was granted by due form of law by the Mexican Government to Francisco Ortiz and Ygnacio Cano on the 19th day of December, A. D. 1833, and duly confirmed by act of Congress approved March 1, A. D. 1861, and surveyed, under authority and instructions from the General Land-Office, during the month of August, 1861, and the survey approved, and is now owned and in the possession of the aforesaid "New Mexico Mining Company," having been occupied and in the quiet, peaceable, and undisputed possession of said company, or those under whom they hold, for more than thirty-seven years; also on and in and about which the said New Mexico Mining Company, resting upon the perfect title secured to them finally by the said confirmative act of Congress, has spent at various times about the sum of $300,000.

Your petitioners further state, in support of their said protest, that the fact that the Mexican Government, through its rightful officers, only about three years after the date at which it is pretended this so-named "Gotera Grant" was made, did certainly grant to said Francisco Ortiz and Ygnacio Cano the "Ortiz Mine Grant," which includes and embraces the Gotera grant, raises the presumption—even induces the conclusion—that the government of Mexico had a right to make the "Ortiz Mine Grant," and therefore that the grantees of the pretended "Gotera Grant" had either failed to comply with the conditions prescribed therein and thereby lost their right thereto, or that such never existed.

As to this "Gotera Grant" being included within the surveyed boundaries of the "Ortiz Mine Grant," the affidavit of William C. Rencher, resident agent of the New Mexico Mining Company, is herewith filed, marked Ex. A, and prayed to be taken as a part of this protest.

For the above reasons your petitioner respectfully asks that said pretended "Gotera Grant" be rejected and the confirmation thereof refused.

S. B. ELKINS,
Attorney for the New Mexico Mining Company.

SANTA FÉ, NEW MEXICO, *September* 20, 1871.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*
Personally appeared before the undersigned, clerk of the district court

of the United States for the first judicial district of the Territory of New Mexico, William C. Rencher, of the Territory and county aforesaid, who, being duly sworn, on his oath, says: That he is the resident agent of the "New Mexico Mining Company;" that during the month of August, A. D. 1871, he became desirous of knowing positively and certainly the exact eastern and northern boundaries of a tract of land known as the "Ortiz Mine Grant," now belonging to the "New Mexico Mining Company," which grant had once before been surveyed, under orders of the Land-Office of the United States, by the surveyor general of the Territory of New Mexico; that with this view he employed and took with him to said "Ortiz Mine Grant," and to assist him in surveying and ascertaining the boundaries of said grant, a skillful surveyor, who is as such in the employment of military service of New Mexico, and with him chainmen to constitute a full and competent surveying party; that he also obtained and carried with him a copy of the field-notes of Mr. Means, the former surveyor of said grant under authority of the surveyor general; that with these aids he did carefully ascertain and verify the correct location of the northeast corner of said grant according to said field-notes and the boundary lines therefrom toward the south and the west, and also familiarized himself with the country on these northern and eastern boundary lines.

This affiant further states that he has examined the application now before the surveyor general of New Mexico for the confirmation of a tract of land represented as the "Gotera Grant," and the description and accompanying map of the same, and that from the knowledge obtained by the above-mentioned survey he knows said described "Gotera Grant," upon which parties now appear as trespassers upon the New Mexico Mining Company, lies, in the greater part, or almost entirely, as far as the vague delineation said Gotera application will permit him to say, within the boundary lines, and in the northeast corner of said "Ortiz Mine Grant."

This affiant further states that by reason of his being resident agent of said New Mexico Mining Company he has had charge of said Ortiz Mine Grant and personal supervision thereof, and that only within the past two months has he learned that there was an adverse claim to that portion of the "Ortiz Mine Grant" covered by the said described "Gotera Grant," and that he has never before thus recently known of anything contrary to the universal recognition of and acquiescence in the title of the "New Mexico Mining Company" over this portion of the Ortiz Mine Grant.

W. C. RENCHER.

Sworn to and subscribed before me this 20th day of September, A. D. 1871, at Santa Fé, New Mexico.

[SEAL.]

WM. BREEDEN,
Clerk United States District Court,
First Judicial District, Territory of New Mexico,
By EBEN EVERETT,
Deputy Clerk.

TERRITORY OF NEW MEXICO,
County of Santa Fé, ss:

This day personally appeared before me, the undersigned, clerk of the first judicial district court of said Territory, Nasario Gonzales, who being duly sworn deposes and says: That he is part owner by purchase of the Gotera Grant, in the county of Santa Fé, said Territory, made on the 22d day of May, A. D. 1830, to Juan de Dios Peña, Teodosio

Quintana, Jesus Ma. Alarid, Jesus Ma. Peña, Ignacio Ortiz, Sr. Ramon Brito, and Juan Lovato, by the government of the Republic of Mexico, and that he has made diligent search for the missing portion of the original documents pertaining to said grant, containing the names of the justice of the peace, Domingo Fernandez, and the attesting witnesses who were present when said grantees were placed in possession of said grant by the said justice of the peace, and has not been able to find the same.

NASARIO GONZALES.

Subscribed and sworn before me this 23d day of March, A. D. 1871.
[SEAL.] M. A. BREEDEN.
Deputy Clerk.

JUAN DE DIOS PEÑA ET AL.

PRIVATE LAND CLAIM.

FRANCISCO ORTIZ Y TAFOLLA, being by the surveyor general sworn, on his oath declares as follows:

Question. What is your name and age, and where do you reside, and how long have you resided where you now live?—Answer. My name is Francisco Ortiz y Tafolla; I was born in January, 1823, and I reside now and have resided since I was a year old at Santa Fé, New Mexico.

Q. Do you know the ranch called the Gotera; and, if so, state where it is situated and what is its extent; and have you any interest in that land?—A. I know the ranch mentioned. It is situated in the county of Santa Fé, on the Galisteo Creek, about three miles below the town of Galisteo, on both sides of the creek. I am not acquainted with the limits or the size of the tract. I have known the ranch of the Gotera since about the year 1835. I have no interest whatever in the land.

Q. Who at that time occupied the ranch of the Gotera?—A. It was then occupied by Francisco Baca y Pino and Ignacio Ortiz.

Q. At that time did those persons have houses built at the place, an acequia opened, and the land fenced?—A. I am not aware whether they did or not.

FRANCISCO ORTIZ Y TAFOLLA.

Sworn to and subscribed before me this 17th day of April, 1871.
T. RUSH SPENCER,
Surveyor General.

JUAN ROMERO Y TENORIO sworn:

Question. What is your name and age, where do you reside, and how long have you resided there?—Answer. My name is Juan Romero y Tenorio; I am fifty years of age, and have always resided at the Cienega, in this county of Santa Fé.

Q. Do you know the ranch of the Gotera; and, if so, state where it is situated, how long you have known it, and who occupied it when you first knew it, and who since; and have you any interest in that land?—A. I know the place mentioned, and it is situated in Santa Fé County, about two leagues down the river west of the town of Galisteo. I have known the place some twenty years, and when I first knew it it was occupied by Ignacio Ortiz, and since then by various others. I have no interest whatever in the land.

Q. Was there an acequia opened on the tract; if so, how was it opened, and was any portion of the tract inclosed by a fence, and were there any houses built on the tract?—A. There was being constructed an acequia, fences and houses built under the personal superintendence of Ignacia Ortiz, in which work I was one of the employés, when all the men were driven off by the hostilities of the Indians.

Q. Was the land planted and any crops raised from it; and, if so, was it irrigated from the acequia in its cultivation?—A. The land was planted and crops raised and gathered from it for three or four years, as the hostile Indians would permit, and the land was irrigated from the acequia.

Q. Have the claimants in any way occupied continuously the ranch from the time they were, as you state, driven off by the Indians; and, if so how? and state, if you can definitely, how many years crops were raised on the land before they first ceased to cultivate it.—A. After they were driven off, as stated, crops were raised for at least four years from the land, and after it was no longer cultivated the proprietors continued to occupy the place as a stock ranch, for which purpose they had huts thereon for the use of the herders, which were occupied by these.

Q. State if you can the boundaries of the land known as the Gotera grant, and the size of the grant.—A. The boundaries are on the north the Cañada de San Marcos, on the south the Cañada Colorado, on the east the Cuevitas Hill, and on the west the Peñasco del Arco, but the distances from one to the other of these land-marks I cannot state.

Q. How many and what kind of live stock did claimants usually have upon the ranch of the Gotera?—A. The stock was cattle and horses, and usually from one hundred and twenty-five to one hundred and fifty head.

his
J. ROMEROY + TENORIO.
mark.

Sworn to and subscribed before me this April 17, 1871.

T. RUSH SPENCER,
Surveyor General.

AGUSTIN DURAN sworn:

Q. What is your name and age, and where do you reside, and how long have you resided there?—A. My name is Agustin Duran, and am seventy-nine years of age; I reside in Santa Fé, and have lived here all my life.

Q. Have you held official positions under the Mexican Government, and if so, what?—A. I have held such official positions. I was for some eight years collector of customs for the department of New Mexico, and, up to the time the American Government took possession of the country in August, 1846, was supervisor of revenue for said department. I have several times been member of the legislative assemblies of New Mexico, and local alcalde.

Q. Were you or were you not a member of the legislative assembly of New Mexico in the year 1830, and, if so, was there or not made by that assembly a grant to land at the place in the present county of Santa Fé, known as the Gotera, and, if so, to whom was the grant made?—A. I was a member of the assembly in that year. There was such a grant made by it then at the place mentioned, the grantees, according to my recollection, being Ignacio Ortiz, Jesus Maria Alarid, and Teodosio Quintana. There were other grantees, but I do not now remember their names.

Q. Were the grantees placed formally in possession of the land granted them at the Gotera, and, if so, by whom and what authority?—A. They were placed in possession, and I think by Domingo Fernandez, an alcalde who acted under order and authority of the legislative assembly.

Q. Did the grantees open an acequia and fence the land or any portion of it at the Gotera, and did they build any house or houses there?—A. They opened there an acequia, and built huts and also fences.

Q. Did the grantees plant the land, and if so, how many years did they continue to cultivate it?—A. They did plant upon the land, but I cannot state how many years they continued to cultivate it, except that they did so for a number of years.

Q. Have the claimants been in possession of the land from the time it was granted them until the present time?—A. They were in possession of it for more than five years after the grant was made—immediately after it was made—and the tract has always been reputed to belong to them. I am aware that they occupied the land for five years as stated, from the circumstance that I owned and occupied an adjoining farm, and frequently saw evidences of such occupation by them.

Q. Have you any interest in the land of the Gotera here in question?—A. I have none whatever.

AGUSTIN DURAN.

Sworn to and subscribed before me this April 17, 1871.

T. RUSH SPENCER,
Surveyor General.

JUAN DE DIOS PEÑA *et al.*
versus
THE UNITED STATES. } Gotera Tract.

AGUSTIN DURAN, being by the surveyor general recalled at the instance of the claimants and again sworn, on his oath declares:

By SAM ELLISON, attorney for claimants:

Question. When petitions for land were under the Mexican Government presented, by whom was it customary to refer such petitions in the absence of the governor; to the departmental assembly?

(Question objected to by S. B. Elkins, attorney for New Mexico Mining Company, as being a question of law. Objection overruled by surveyor general.)

Answer. By the secretary.

Q. State, if you recollect, who was the secretary of the Territory of New Mexico about the year 1830.—A. Santiago Abreu was then secretary.

Q. Did you in the lifetime of Santiago Abreu know him personally, and have you seen him write?—A. I knew him long and quite intimately, and have seen him write often.

Q. Examine the document now shown you, bearing a certificate dated May 1, 1830, which purports to be signed by said Abreu, and state whether said signature is genuine, in your opinion.—A. I have examined the signature, and it is the genuine one of said Abreu.

Q. State, if you know, whether the governor kept a book of record of his acts and proceedings, and, if so, what has become of the book?—A. He kept such a book of his official acts, but what has been done with it, or whether in existence still, I am unable to say, as many of the old records and archives have been lost and destroyed and burned.

Q. Who was the recognized political head of the Territory in the absence of the governor?—A. The secretary of the government.

AGUSTIN DURAN.

Sworn to and subscribed before me, this November 25, 1871.

T. RUSH SPENCER,
Surveyor General.

JUAN DE DIOS PEÑA ET AL.

This claim was filed in the office March 23, 1871, and was set for final trial for the 25th of November following, on the documentary and other evidence filed and produced under the act of Congress of July 22, 1854.

On the 16th of August last a protest was filed with the surveyor general by the resident agent of the New Mexico Mining Company, as the present owners of the Ortiz Mine Grant No. 43, setting forth that there was a conflict on the ground between the grant to Peña *et al.* and said Ortiz Mine Grant, and requesting that all proceedings might be suspended and the company be allowed time to show the invalidity of the former.

The suspension asked was allowed till the said 25th of November when the question was taken up, the protesting agent and also the attorney for the New Mexico Mining Company, as well as the attorney for the claimants under Peña *et al.*, being present, and further testimony was presented by said claimants. No testimony of any kind was produced in support of the protest.

The validity of the grant to Peña *et al.* remaining unimpaired, the elder of the two in question, that of Peña *et al.*, necessarily remains good.

It appears from the title-papers that on the 14th of April, 1830, Juan de Dios Peña, Ignacio Ortiz, Theodosio Quintana, Jesus Maria Alarid, Jesus Ma. Peña, Ramon Brito, and Juan Lorato, petitioned the governor for a grant, with the exclusive privilege of the water available for irrigation, to a tract of land called the "Gotera," situated in the present County of Santa Fé.

The petition, on the 30th of April, was referred for report thereon to the ayuntamiento of Santa Fé, which body appointed a commission of three persons, consisting of two members of the ayuntamiento and the local alcalde, to investigate and report upon the petition, and on the 12th of May the alcalde, for the commission, made report stating the character and capacity of the land, reporting it as vacant, and in substance recommending the making of the grant prayed for. On the 17th this report was transmitted to the governor that the same might be by him laid before the territorial deputation for its action, and on the following day the deputation made the grant to the petitioners as recommended by the ayuntamiento, to which body the matter was referred back with authority and direction to execute the grant by ordering the constitutional alcalde to place the grantees in formal possession. On the 23d, all the parties being on the ground, the alcalde so placed them in possession, designating to each a specified quantity and portion of the general tract, which it appears extends across the creek north and south about one thousand varas, and of this general width assigning from east to west and describing by metes and bounds to Juan de Dios Peña, five hundred varas; Ignacio Ortiz, five hundred varas; Teodosio Quintana, five hundred varas; Jesus Maria Peña, five hundred varas; Jesus Maria Alarid, five hundred varas; Ramon Brito, one hundred varas; Juan Lorato, one hundred varas.

The title-papers, embraced in one document filed in this case and

acted on by the office, are originals. They appear to be complete with the exception of the latter part of the act of possession, which is wanting. The grant appears to have been made and executed in due manner and form, as shown by the muniment and by the testimony of witnesses examined at the investigation of the claim. The original journal of proceedings of the territorial deputation of New Mexico, on file among the archives of this office, (proceedings of May 18, 1830, page 47,) corroborates and establishes the fact of the grant.

The defect above referred to in the completeness of the act of possession is not deemed a fatal one, as the fact is proved by the testimony of witnesses that the grantees were actually placed in possession of the land by the constitutional alcalde. It appears from the affidavit filed in this case of Nasario Gonzales, who claims as the principal of the present owners of the land, that due diligent search had been by him made for the missing portion of the act of possession, but without success in finding it.

From the time the grant was made, in 1830, the grantees or their representatives have always, as shown in the evidence, been reputed the proprietors of the land in question, and it is likewise shown that they have, by cultivating the soil and occupying the tract with their live stock from year to year as the hostilities of the Indians permitted, been in the possession and enjoyment of the land to the present time.

In view and consideration of the premises the grant made on the 18th day of May, 1830, to Juan de Dios Peña, Ignacio Ortiz, Teodosio Quintana, Jesus Maria Peña, Jesus Maria Alarid, Ramon Brito, and Juan Lorato for a certain tract of land known as the "Gotera," as above described, is held to be a good and valid grant under the laws, usages, and customs of the Republic of Mexico and the treaty of Guadalupe Hidalgo of 1848, and the same is hereby approved and transmitted to the Congress of the United States, with the recommendation that it be confirmed to said original grantees and their legal representatives.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 25, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 11, 1871.

The foregoing transcript is a correct copy of all the papers in private land-claim No. 56, in the name of Juan de Dios Peña *et al.*, on file in this office.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim reported as No. 57, made to José Francisco Baca y Terrus et al. June 12, 1840. *Approved by the surveyor general of New Mexico November* 25, 1871.

JOSÉ FRANCISCO BACA Y TERRUS ET AL.

UNITED STATES OF AMERICA, *Territory of New Mexico:*

To the Hon. T. R. Spencer, United States surveyor general for the Territory of New Mexico:

Your petitioners, residents of the county of Santa Fé, Territory of

New Mexico, respectfully represent, that they are the claimants and owners in fee of a certain tract of land lying and situate in the county of Santa Fé in said Territory, bounded as follows, to wit, on the east by the mouth of the Cañada del Infierno, on the west by the lands of Agustin Duran, on the south by the hills of the Arroyo de la Jara, and on the north by the hills of the Matadero, as is designated in plat (marked A) accompanying this petition, all of which points and boundaries are well-known landmarks in said county of Santa Fé, and the said petitioners claim a perfect title to said lands as purchasers and legal representatives of José Francisco Baca y Terrus, Juan Benavides, José Ma. Benavides, Cruz Chaves, José Lucero, José Ma. Padilla, Miguel Rodriguez, Estevan Sena, Manuel Baca, Nasario Gonzales, Ygnacio Baca, Pedro Baca, José Duran, José Baca, Vicente Anaya, Felipe Sena, and Leonidas Baca, to whom the original grant was made on the 28th day of June, 1840, by authority of the laws, usages, and customs of the Republic of Mexico at that time in force.

The said claimants cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about two thousand acres; nor can they furnish an accurate plat of survey, as no survey has been made thereof, but herewith append a plat of said grant as accurate as can possibly be made from the maps and well-known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map. The said grantees were legally placed in possession of said lands, and said claimants know of no other claim to said land or grant, and the same has been by said claimants and their representatives occupied from the date of said grant down to the present time. The original grant as claim No. 1016, marked B, is now on file in your office, a certified copy of which accompanies this petition, and is begged to be considered a part thereof, to be referred to whenever necessary. Claimants present this their said claim before you, under the eighth section of the act of Congress approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers thereon, and for other purposes," and respectfully ask confirmation by you of this their said claim.

SAM'L ELLISON,
Attorney for Claimants.

SANTA FÉ, NEW MEXICO, *May* 16, 1871.

Sello tercero. [SEAL.] Dos reales.

Para los años de mil ochocientos treinta y ocho y ochocientos treinta y nueve.

[Rubrica.] Abilitado para los años de 840 y 841. [Rubrica.]

Sr. PRESIDENTE,

Alc de 2º de esta Yltre. Corporacion:

Los C. C. José Franco. Baca y Terrus y Juan Benabidez y otros Vs., que en la que sitan anterior, se suscriben; de estos el primero residente en las Golondrinas y el segundo en el Real del Oro; en la mas bastante forma que haya lugar en dro. y al nuestro combenga, ante V. S. con toda sumicion y respecto nos presentamos y dicimos que hallandose en el Arroyo Bajo de Galisteo una posecion de tierra inhabitada y sin perjuicio de tercero hemos presentado los mismos peditantes en el año po. po. en el mes de Junio una instancia haciendo esta pedido á S.

Sa. el yltre. ayuntamto. de estas tierras inhabitas: y no emos sabido de su debolucion, pues siendonos demaciada benefica su aprobacion y resolucion como sea de el superior agrado de V. S. para que todos estos postulantes tiren sus calentos y medidas segun conbenga con el superior gto. do V. S. á do quien corresponda segun se determino por esa yltre. corporacion; pues dhas tierras por el oriente sus linderos tiran al desembogue del de la cañada qe. nombran del Infiero, por el poniente linda con tierras de Dn. Agustin Duran, por el sur las lomas del Arroyo de la Jara, por el norte a las Lomas del Matadero por lo que:

Á V. S. pedimos en merito de justica se nos conceda este pedido de lo que resiberemos merced y gracia; juramos no ser de malicia y lo nesecario, &c.

SANTA FÉ, 15 *de Mayo de* 1840.

Por ausencia de los demas qe en la antor. se suscriben lo ase el primero.

JOSÉ FRANCO. BACA Y TERRUS.

En secion del dia 4 de Junio del corriente año que presidi como alcde. 2º de este yltrre. ayuntamto. de esta cuidad de Sta Fé, se presento la solicitud de tierras para aumto. de la agricultura que decean formar Dn. José Franco. Baca .y Terrus, y otros indibiduos que decean tener beneficio pr. razon de su trabajo; esta corporacion habiendo tomado en consideracion esto y dandoles el lleno a las leyes qe. tanto renearga el fomento de agricultura como qe. los C. C. onrados sean atendidos en sus fustas solicitudes, despues de haber calculado si ay algun otro tercero qe. mejor dro. represente, no lo ay, pues es terreno yelmo, valdio, inculto, que solo sea ocupado para pasteos; pues se les podra señalar à cada indibiduo doscientas vs. por la proporcion que tienen algunos de cultibar; y los de mediana proporcion cien vs.; esto ha tenido a bien S. Sa. el respetable ayto, dirijirlo á la superior consideracion de V. S. como nato prefecto de este 1er distrito, para qe si V. S. lo tubiere a bien aprobar y mandar se posecionen a los suplicantes, se haga lo que fuere de su superior agrado, pues esta corporacion no decea otra cosa que guardarle á V. S. los dignos respectos que merese: en la inteligencia que estos pocecionantes si es que se les concede; sea con las sircunstancias que la agua de regadillo siempre es preferente en ella Dn. Agtin. Duran, pr. antiquidad que posee el rancho de Maragua como tambien se quien sus sembrados para que inceran los animales con perjuicio del comun por ser el arroyo ejicios communes, y todo he quello que V. S. tenga ha bien mandar en el particular como superior de esta corporacion.

DOMINGO FERNANDEZ,
JOSÉ SERAFIN RAMIREZ.

Rio Arriba, Junio 12 de 1840, ynpuesta esta prefetura de la solicitud qe. asen los lisitantes en la yntancia, que ante se de y del ynforme qe. al calse de ella se alla puesto por el ylustre alluntamto. de la ciudad de Snta Fee brilba festa instancia al alcalde segundo de dha. ciudad pa. qe. pase a poner en posesion a los licitantes en el tereno qe. solicitan con tal qe. no sea con perjuicio de tersero como lo previnen las lelles qe. nos gobiernan.

ARCHULETA.

Sello tercero. [SEAL.] Dos reales.

Para los años de mil ochocientos treinta y ocho y ochocientos treinta y nueve.

[Rubric.] Abilitado para los años de 840 y 841. [Rubric.]

En este puesto de Ntro. padre S. Franco. del Arrollo de Galisteo, inmediato á Maraguá, y del linder de D. Aogustin Duran arriva, y a distancia lejana y rretirada, como lo manifiesta el terreno del arrollo de donde desemboca la cañada que comunente llamaban del infierno y aora de San Franco. distante de la lavor de Galisteo cosa de media legua poco mas ó menos. A los veinte ocho dias del mes de Junio de mil ochocientos cuarenta, en cumplimiento del superior decreto de S. S. el sor, prefecto, a virtud del informe del yllustre ayuntamto. de la capital Santa Fé, de quien ha jurisdicion esta, estando en el mencionado puesto yo el C. Domingo Fernandez, 2º alc. constitucional de la sitada ciudad; estando congregados los indibiduos que án solicitado del mensionado tereno desde las siete de la mañana hasta cerca de las tres de la tarde haguardando que hubiese algun reclamo de terreno que mejor derecho representace, pasado el sitado tiempo fué requirido por los mismo licitantes par a que en nombre de ntra. nacion mejicana, y de ntro. presidente les puiesese en posecion nacional y personal, la que aprendieron quietos y pasificios, sin contradicion de persona alguna, pasandose por.

Seal third. [SEAL.] Two reals.

For the years eighteen hundred and thirty-eight and eighteen hundred and thirty-nine.

[Rubric.] Legalized for the years 1840 and 1841. [Rubric.]

Mr. PRESIDENT, *second alcalde of this illustrious ayuntamiento:*

The citizens José Franco. Baca y Terrus, and Juan Benavidez, and others, residents, who signed a former application, the first a resident of Golondrinas, and the second a resident of the Real del Oro, in due legal form, appear before your excellency, with all submission and respect, and say: that there is on the arroyo, below Galisteo, a tract of unoccupied land, and, without prejudice to any third party, the petitioners did, in the month of June of the past year, present an application to its excellency, the illustrious ayuntamiento, for those uninhabited lands, the return of which we have not been advised, and its approval being of great benefits to us, and such resolution as your excellency may be pleased to make, in order that all the applicants may take such steps and measures as they may deem best relative to the superior decree of your excellency, or to whom it may pertain, and as may be determined by that illustrious corporation; said lands are bounded, on the east, by the mouth of the cañada, called the Infernio; on the west, by the lands of Agustin Duran; on the south, by the hills of the Arroyo de la Jara; on the north, the hills of the Matadero; wherefore we ask your excellency, in merit of justice, to grant us this petition, whereby we will receive favor and grace. We declare that we do not act in dissimulation, and as may be necessary, &c.

SANTA FÉ, *May* 15, 1840.

In the absence of the others who signed the former petition, this is subscribed by the first.

JOSÉ FRANCO. BACA Y TERRUS.

In session of the 4th day of June, of the present year, at which I presided as second alcalde of this illustrious ayuntamiento, of this city of Santa Fé, the application for lands for the encouragement of agriculture was presented, which José Franco. Baca y Terrus and other individuals wish to carry on by their labor and for their benefits; and this corporation, in consideration thereof, and in full compliance with the laws that so earnestly recommend the advancement of agriculture; and in order that worthy citizens may be heard in their just petitions, and after having ascertained that there was no third party representing a better right thereto; and said lands being vacant, public, and uncultivated, and only used for pastural purposes, therefore there may be granted to each individual that has sufficient means to cultivate the same two hundred varas, and to those of small means one hundred varas. This, its excellency, the respectable ayuntamiento, have thought proper to address to the superior consideration of your excellency, as prefect de facto of this the first district, to the end that, if your excellency should be pleased to approve the same, may order the applicants to be placed in possession, or to act in the premises as you may deem proper, as the only wish of this corporation is to manifest to your excellency the high respect you merit, with the understanding that, should the grant be made, it shall be with the condition that Agustin Duran, as the senior possessor of the Maragua ranch, shall have the preference in the use of the water for irrigation; and also that they shall fence in their fields, in order that they may not run off the animals to the injury of the community, for the reason that the arroyo is common pasture grounds; and all that which your excellency may deem proper to order in the premises as the head of this corporation.

DOMINGO FERNANDEZ.
JOSÉ SERAFIN RAMIREZ,
Secretary.

RIO ARRIBA, *June* 12, 1840.

This prefecture, being advised of the application, as set forth in the foregoing petition, and the report of the illustrious ayuntamiento, of this city of Santa Fé, placed at the foot thereof, this petition will be returned to the second alcalde of said city, in order that he proceed to place the applicants in possession of the lands they solicit, conditioned that it be not in prejudice to any third party, as provided by the laws that govern us.

ARCHULETA.

Seal third. [SEAL.] Two reals.

For the years eighteen hundred and thirty-eight and eighteen hundred and thirty-nine.

[Rubric.] Legalized for the years 1840 and 1841. [Rubric.]

At this place of our Father San Francisco, of the arroyo of Galisteo, near Maragua and above the boundary line of Agustin Duran, a retired and long distance, as the land shows from the arroyo from which comes the cañada commonly called the Infierno, and now San Francisco, and a half a league, a little more or less, distant from the fields of Galisteo, on the 28th day of the month of June, 1840, in compliance with the superior decree of his honor the prefect, in virtue of the report of the illustrious ayuntamiento of the capital of Santa Fé, to whose jurisdiction it pertains, I, the citizen Domingo Fernandez, second constitutional

alcalde of said city, being at said point, and the individuals who applied for said lands having assembled at seven o'clock in the morning and remaining until near three o'clock in the afternoon, waiting for any claim that might be made to the land by any person having a better right thereto, to be presented, and said time having elapsed, I was required by the said applicants to place them, in the name of our Mexican nation, and that of our President, in the national and personal possession, in which possession they did enter quietly and peaceably, without being molested by any person, by walking over—— [The balance is missing.]

The above and foregoing is a correct translation of the original in Spanish, made by me, and the same is a correct translation to the best of my knowledge and belief.

SAML. ELLISON.

Sworn to and subscribed before me this November 10, 1871.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, November 10, 1871.

The foregoing translation having been by me compared with the original in Spanish and found correct, the same is hereby adopted.

DAV. J. MILLER,
Translator.

FRANCISCO BACA Y TERRUS ET AL.

FRANCISCO BACA Y TERRUS ET AL.
versus
THE UNITED STATES.
} Before the surveyor general.

ANTONIO CHAVES, witness for claimants in the above case for the approval and confirmation of a certain grant to land in the county of Santa Fé, New Mexico, being by the surveyor general duly sworn, on his oath declares:

By SAMUEL ELLISON, attorney for claimants:

Question. What is your name, age, and residence?—Answer. My name is Antonio Chaves; I reside at Galisteo, and am about forty-nine years old.

Q. Do you know whether Francisco Baca y Terrus and others were placed in possession of land near Galisteo, and if so about what time, who were the parties placed in possession, and where is the land situated?—A. I am aware that parties were given possession of land there in about the year from 1840 to 1845, they being, according to my recollection, Francisco Baca y Terrus, Domingo Fernandez, José de la Cruz Chaves, José Lucero, Miguel Rodriguez Estevan Sena, Vicente Anaya, Juan Benavides, José Duran, and none others as I now remember, and the boundary of the land on the north was the ceja; on the south another ceja; on the east the Arroyo de los Angeles, otherwise called Arroyo del Infierno, and on the west the boundary of the Agustin Duran tract of land.

Q. Were you present when the parties you have mentioned were placed in possession of the land referred to, and if so, who placed them in possession?—A. I was present and witnessed that Domingo Fernandez placed them in possession.

Q. Did you assist in any way in the execution of the act of possession, and if so, in what capacity?—A. I assisted in measuring off the land by carrying the measuring-cord.

Q. Did Señor Fernandez, in placing these parties in possession, act in any official capacity, and if so, what?—A. I understood he acted as alcalde.

Q. Have you any interest in this land-claim?—A. I have none.

his
ANTONIO + CHAVES.
mark.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,
Surveyor General.

ESTEVAN SENA, being in like manner sworn and interrogated, on his oath declares:

Question. What is your name, residence, and age?—Answer. My name is Estevan Sena; I reside at Galisteo, and am sixty-two years of age.

Q. Do you know whether there was a land-grant made to Francisco Baca y Terrus, Juan Benavides, and others, in this vicinity; and if so, state when and at what place the land lies, and by what name the tract is known?—A. I am aware of such a grant, and that it was made to said parties in the year 1840, the land lying on Galisteo Creek, below the Arroyo de los Angeles, and known as the Maragua tract.

Q. What are the boundaries of the tract?—A. On the north and south cejas, or hills, on the east the Arroyo de los Angeles, and on the west the land of Agustin Duran.

Q. Were you present when the parties were placed in possession of the land, and if so, by whom were they placed in possession?—A. I was present on the ground, and witnessed the act of possession executed by Domingo Fernandez, who acted under authority and direction of the ayuntamiento.

Q. Can you mention the names of the parties given possession, and if so, please do so?—A. I can, and they are Francisco Baca y Terrus, Ignacio Baca y Terrus, Pedro Baca y Terrus, Juan Benavides, Luis Benavides, José Maria Padilla, José Lucero, Cruz Chaves, and I remember none other.

Q. Have these parties, or their legal representatives, held possession of this land to the present time?—A. They have, and have worked the land all the time.

his
ESTEVAN + SENA.
mark.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,
Surveyor General.

AGUSTIN DURAN, being in like manner sworn and interrogated, on his oath declares:

Q. What is your name, age, and residence?—A. My name is Agustin Duran; my age is seventy-nine years, and residence Santa Fé.

Q. Do you know whether a grant for land was made to Francisco Baca y Terrus, Juan Benavides, and others; and if so, state when, and by whom and where the land lies?—A. I know of such a grant, which

was made by the governor and departmental assembly of New Mexico, I think, but am not certain, in the year 1840, the assembly directing the alcalde to place the parties in possession. The tract is situated adjoining a tract of mine, known as the Maragua, being above mine on the east of it. The boundaries of the land so granted are, on the north and south hills, commonly called cejas; on the west the Maragua tract just mentioned, and on the east the Arroyo de los Angeles, formerly known as the Arroyo del Infierno, the latter name (del Infierno) having been in late years changed at the request of Bishop Lamy into that of de los Angeles.

Q. What position or office did you hold in the year 1840, in New Mexico?—A. I was a member of the departmental assembly, and was also custom-house officer.

Q. What official positions did Archulita, José Serafin Ramirer, and Domingo Fernandez, whose signatures appear on the muniment in this case, occupy in New Mexico, in 1840?—A. Juan Andres Archuleta was civil and military governor of New Mexico; José S. Ramirer was treasurer of the department, and Domingo Femandez was local alcalde, in 1840, and the signatures of these individuals, on the paper mentioned, are all genuine.

Q. Have you any interest in this case?—A. None whatever.

AGUSTIN DURAN.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,
Surveyor General.

DAVID J. MILLER, being in like manner sworn and interrogated, on his oath declares:

Question. What is your position in the office of the surveyor general of New Mexico, and how long have you been employed therein?—Answer. I am translator and chief clerk, and have been employed in the office with but little intermission since its organization in the year 1854, as translator and clerk.

Q. Please examine the muniment in the private land-claim of Francisco Baca y Terrus *et al.*, now in investigation before the surveyor general, and state whether it has always been in the surveyor general's office since it was established, and if so, state how you are aware of the fact.—A. I have examined the document referred to, and I find it to be one of those selected in the year 1855, by David V. Whiting, then chief clerk, and myself, then assistant clerk, in the surveyor general's office, from among the old archives found in the office of the secretary of the Territory of New Mexico, and transferred thence to the office of the surveyor general, under authority and instructions of the Secretary of the Interior, and it has since remained in the surveyor general's office.

DAV. J. MILLER.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,
Surveyor General.

AGUSTIN DURAN, having been by the surveyor general duly sworn, on his oath declares:

Question. What is your name, age, and place of residence?—Answer. My name is Agustin Duran; my age is seventy-nine years; and my residence is here at Santa Fé, and I have always resided here.

Q. Who was the governor of New Mexico, according to your recollection, in the year 1840?—A. It was Juan Andres Archuleta, who was then the acting governor and commanding general, owing to the suspension from office of the governor of that time.

Q. Did you know personally Juan Andres Archuleta, José Serafin Ramirer, and Domingo Fernander, and have you seen them write?—A. I knew them all well, personally, and have often seen them write.

Q. Please examine the signatures of those individuals borne by the muniment in this case, and purporting to be their original signatures, and state whether they are genuine, in your opinion.—A. I have examined the document and the signatures borne by it, referred to, and the signatures are unquestionably their genuine signatures.

AGUSTIN DURAN.

Sworn to and subscribed before me this 24th November, 1871.

T. RUSH SPENCER,
Surveyor General.

UNITED STATES OF AMERICA, *Territory of New Mexico:*

This day personally appeared before the undersigned, clerk of the United States district court for the first judicial district of the Territory of New Mexico, Nasario Gonzales, who, being by me duly sworn, on his oath states:

That he is the principal present owner of the grant for land, situate in Santa Fé County, New Mexico, now pending in investigation in the office of the surveyor general of New Mexico, made to Francisco Baca y Terrus and others by the Mexican government, June 12, 1840, a portion of the muniment in which grant, to wit, a part of the act of possession, is missing, and further declares that he has made due diligent search for said missing portion, and has been unable to find the same or obtain any information concerning its loss; wherefore he believes the same has been mislaid, lost, or destroyed, so that it cannot be procured.

[SEAL.] NASARIO GONZALES.

Subscribed and sworn to before me this 31st day of July, A. D. 1871.

M. A. BREEDEN,
Deputy Clerk.

JOSÉ FRANCISCO BACA Y TERRUS ET AL.

The muniment in this case, at the instance of the attorney for the present claimants, was taken from on file among the old archives on deposit in this office, to which, under authority and instructions of the Secretary of the Interior, they were transferred from the office of the secretary of the Territory of New Mexico at the time of the establishment of this office in 1855, and was filed as a claim May 16, 1871.

The title papers so filed are the originals, and consist of a single document, embracing—

1. The petition for the land by José Francisco Baca y Terrus and Juan Benavides, and their unnamed associates, dated May 15, 1840.

2. The report of the ayuntamiento of Santa Fé, recommending the making of the grant.

3. The grant by the prefect for the land applied for, dated June 12, 1840.

4. A portion of the act of possession, executed by the alcalde.

The case was set for a hearing for the 31st of May last, and rested

till the 24th of November instant. The claimants, by their attorney, appeared with witnesses in May, and by their testimony proved that in or about the year 1840 the said Baca y Terrus and Benavides, and sundry other individuals, their associates in the grant, were placed in formal legal possession of the land by the alcalde, and that the land had been continuously occupied and cultivated from that to the present time by them and their legal representatives; and in November further proved that Juan Andres Archuleta, in the year 1840, when he made this grant, was the acting civil and military governor of New Mexico, during the suspension from office of the regular governor. At the taking of testimony both in May and November all the signatures borne by the papers constituting the claim were proven to be genuine.

Each of the title documents in this case is complete, with the exception of the act of possession, the latter portion of which is missing. Affidavit was filed by Nasario Gonzales, as one of the principal present claimants, that due, diligent search had been made by him for the missing portion, and that not finding or obtaining any information concerning the same, he believed it to be permanently mislaid. It has also been searched for among the archives from which was taken the sheet containing the other documents and the preserved portion of this one, and was not found. There appears, however, sufficient of the document to show it to be the act of possession, executed by the alcalde Fernander, and as that individual and officer is shown by the evidence to have placed the grantees in possession, and as the boundaries of the tract were stated in the petition, and implied in the grant, the incomplete condition of the alcalde's record of that act is not deemed a circumstance fatal to the title.

There is no definite or conclusive evidence anywhere in the case as to who or how many, besides Baca y Terrus and Benavides, were the grantees, or who or how many were placed in possession by the alcalde. Baca y Terrus and Benavides applied for the land described in their petition for themselves and their unnamed associates, and the alcalde put them in possession, omitting to state the names or the number of the parties so placed in possession. This circumstance might involve a question for consideration, if the names of all the grantees, and their number, in a valid grant for a specified piece of land were thought to be a matter of importance in the trial of title as against the United States. It is clear it does not in this case concern the validity of the grant or affect the quantity of land granted. The sole question in the case is whether the alleged grant is sufficient to sever from the public domain the land claimed. The title to the proportion thereof claimed by the parties interested is a matter for arrangement among themselves or for the adjudication of the courts of law, and in no wise involves or concerns the Government.

The grant in this case is therefore held to be a good and valid grant for the land mentioned in the petition, and referred to in the grant, under the laws, usages, and customs of Mexico, and the same is hereby approved, and recommended for confirmation to José Francisco Baca y Terrus and Juan Benavidez, and their associates and their legal representatives, and a transcript of all the papers in the case is herewith transmitted for the action of the Congress of the United States.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, November 25, 1871.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 11, 1871.

The foregoing transcript is a correct copy of all the papers in private land claim No. 57, in the name of José Francisco Baca y Terrus et, al. on file in this office.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim reported as No. 58, *being land-grant to José Mirabal and others, made in* 1795, *for the rancho del Rio Grande tract, and decided January* 15, 1872, *by the surveyor general of New Mexico.*

SANTA FÉ, NEW MEXICO,
January 10, 1872.

Hon. T. RUSH SPENCER, *Surveyor General for New Mexico:*

Your petitioners, the inhabitants under title, the present claimants of the tract of land in the county of Taos, in this Territory, known as the Rio Grande grant, respectfully ask that you proceed at once to the investigation of said claim, so that the same may be laid before Congress at its present session for confirmation.

The original papers, constituting the title to said tract of land, are already on file in your office as private land-claim No. 78. From these it appears that in the year 1795 José Mirabal, Antonio Fernandez, Concepcio Romero, Ventura Romero, Julian Romero, Mariano Romero, Antonio Frezqui, José Antonio Gonzales, and Maria Romero, and Catarina Romero petitioned the authorities for the land, that the governor made to them the grant on the 4th of February of that year, and that the grantees were regularly placed in possession of the land on the 9th of the following April by the chief alcalde, who designated the boundaries of the tract. The original signatures of these officers appear upon the papers on file, and may be verified from the records of your office.

Your petitioners and those through whom they derive their title have been in peaceable possession and enjoyment of the land thus granted and delivered them from that time to the present day, and they know of no claim adverse to their own for the land or any portion thereof so held by them.

Your petitioners would state that in the year 1837 certain parties applied to the governor of New Mexico for a grant to a portion of the land covered by this grant, which application was referred to the local authority whose consent and recommendation were necessary prerequisites to the making of the grant. The local authority declining to recommend the grant on the ground that the land belonged to your petitioners, the governor declared the application for the land inadmissible, all of which will more fully appear by reference to the original document herewith filed, marked A, and from which proceedings it appears and is shown that the title of your petitioners to the land in question was fully tested, recognized, and confirmed by the legal authorities of the government of Mexico.

Your petitioners would further state that, finding their claim had not been acted upon by your office, and desiring that it should be recognized by the government as soon as practicable, presented the same directly to Congress through the territorial Delegate during the first session of the Forty-first Congress, that a bill of confirmation was introduced into the House of Representatives early in the session, and referred to the Committee on Private Land Claims, which, after thorough investi-

gation of the case, favorably reported the bill, which then passed both Houses of Congress and went to the President for his signature, which, for some reason unknown to your petitioners, (unless the extraordinary pressure of more important bills during the closing days of a session,) it never received, whereby the bill failed to become a law. A similar bill was introduced into the Senate of the United States at the first session of the Forty-second Congress and passed that body, but for want of time did not pass the House of Representatives, as your petitioners are informed. Your petitioners file herewith, marked B, an extract from the Congressional Globe, the official journal of Congress, showing in part the action of Congress upon this their claim, being the only printed evidence your petitioners now have at hand.

Your petitioners, desiring and intending to apply at the present session of Congress for the confirmation of this grant, and deeming it well, before doing so, perfectly to fortify their claim by the approval of your office, now ask an investigation of the same under the act of Congress of July 22, 1854; that should such investigation satisfy your honor of the validity of our said grant under the laws, usages, and customs of the Spanish and Mexican governments in New Mexico, they respectfully ask an approval of the said grant to the legal representatives of the said original grantees, José Mirabal and others, (which legal representatives now exceed three thousand in number,) and a recommendation to Congress for the confirmation of the same.

Respectfully submitted.

PEDRO SANCHEZ,
Attorney for Petitioners.

Señor Álce. Mayor y Capn. a Guerra Dn. Anto. José Ortiz :

Los vesinos del rancho de Nuestro Padre San Franco. del rio de las Trampas, y en particular los viejos nativos, con los ya mensiondos arriba, paresemos y nos ponemos ante las plantas de vmd. con todo rendémiento y desimos, señor, que por cuanto tenemos razon que algunos de los vesinos quieren pedir o an pedido en real posesion el Rio Grande, por lo que nosotros todos en comun y cada uno en particular desimos, señor, que de poblarse dho. Rio Grande es asernos a nosotros gran daño, el que nosotros no les deseamos, por que bien sabe vmd. como dho. rio se seca y la nuestra lavor es grand a vista de vmd. y de flaquearnos el agua, abra muchos menoscavos en el diezmo y primisia de ntra. sta. madre yglesia y mantension de nuestras familias y asi mismo, señor, á Vmd. que sabe los vesinos primeros que dho. rancho tenemos poblado y emos sufrido tantos ataques de enemigos, nos parese señor, no ser justo que ese daño nos quieran seguir, apocandonos el agua en ntras. labores, pues es constante a todos la falta de agua que por fines de Agosto y todo Septiembre padesemos; por lo que a. Vmd. pedimos y suplicamos por la cosa de ntro. soberano se sirva atendernos, si es justo lo que pedimos y juramos a Dios, ntro. señor, y a la señal de la santa cruz esta ntra. petision no ser de malisia; y en lo nesario &c.

A rruego y por todo los vezinos de esta

NICOLAS LEAL.

PUEBLO DE TAOS, *Febrero 2 de* 1795.

Pasen los ynpetrantes ante S. S. para qe. en vista de lo qe. piden determine lo qe. hayare por de justicia.

ANTO JOSÉ ORTIZ.

STA. FÉ, 4 *de Fbro. de* 1795.

Como lo piden los Ynteresados.

CHACON.

Sor. Alce. Mayor y Capn. á Guerra Dn. Anto. José Ortiz:

José Mirabal, Anto. Fernandes. Consepion. Romero, Bentura Romero, Julian Romero, Mariano Romero, Anto. Fresqui, José Anto. Gonzales, Ana Maria Romero, Catarina Romero, todos juntos, unanimes y conformes y cada uno en particular, paresemos ante vmd. en la mas bastante forma que aya lugar y derecho y al ntro. conbenga, y desimos, señor, que por cuanto tenemos pedido por primera ves el paraje del Rio Grande, y aver visto como otros vesinos lo pidieron de merse, pusimos los aqui mensionados el reparo por cuanto la fuente del rio se apoca y ay años que tanbien se seca, y por esta causa bolbemos a molestar á Vmd. nos atienda, y si es justo que se nos de á. los mensionados para pastos y abrebaderos de ntros. ganados y cavallada, y que vmd. se sirva de entrarnos en real posesion, por lo que. á Vmd. pedimos y suplicamos se sirva aser como llevamos pedido, si es justo, lo que pedimos y juramos en toda forma de derecho esta ntra. presentasion no ser de malisia y en lo nesesario, &c.

A rruego de los expresados.

NICOLAS LEAL.

Possession.

En nueve dias del mes de Abril de este año del mil setecientos noventa y sinco, yo el alce. mayor y capitan a guerra de este pueblo de San Gerono. de Taos y su jurisdicion, Dn. Anto Josef Ortiz, en cumplimiento de lo mandado por el Sor. Thne. Coronl. Dn. Fernando Chacon cavaro, del orden de Santiago, y governador politico y militar de este reino, antes de pasar yo dho. alce. mor. a el puesto del Rio Grande, en compania de dos testigos qe. lo fueron Dn. Christoval Bijil y Dn. Juan Ygno. Sanches, estando presentes los diez presentantes les hice saver y entender la presentacion qe. hacian y les exprese qe. para la dha. possesion havian de guardar y cumplir en toda forma de derecho las condisiones siguientes: qe. el paraje prefixado avia de ser comun; a todos ellos qe. respecto a lo ariesgado del paraje han de mantener todas sus armas de fuego o flechas, de lo qe. les pasara muestra el alce., que los mande tanto en su entrada como en cualesquier tiempo qe. lo tuviere por conveniente; entendidos qe. pasados dos años de la possesion todas las armas qe. tengan deveran ser de fuego presisame., bajo la pena de los que no lo executen seran despedidos del sitio y aviendose echo se cargo todos y cada uno de por si de la sita ya referida; en su conformidad respondieron de mancomun quedar inpuestos y enterados de lo qe. se les advierte; en consecuencia de lo cual les tomé por la mano, y dixi en claras e yntiligibles voses qe. en nombre de S. M. (que Dios gue.) y sin perjuicio de—— su real haver, ni el de tersero, los pasie por dhas. tierras, arancaron la sacate, tiraron piedras y dieron voses, disiendo viva el rei, tomando possesion de dhas. tierras quieta y pasificamente, sin contradision alguna, señalandoles los linderos, qe. son por la parte del sur la cuchilla de la Sierra del Oso; por el poniente la cañada de Miranda y camino qe. va á el pueblo de Picuries; y por el oriente la cuchilla de la sierra del rio de Dn. Fernando, y por el norte el lindero de Dn. Manl. Montes Bejil: advirtiendoles que los pastos y abrebaderos son comunes, y para qe. en todo tiempo conste lo firme, actuando por reseptoria; a falta de todo escrivano qe. no lo hai, con los dos testigos de mi asistencia con quienes actuo; de que doy fé.

ANTO. JOSEF ORTIZ.

Teso.: CHRISTOBAL VIGIL.
Teso.: JUAN YNASIO SANCHES.

[Doc. A.]

Sor. Gefe Politico:

El co. Nicolas Sandoval, besino y residente en San Geronimo de Taos, por si y a nombre de los qe. abajo firman, presenta ante la superioridad de Vssa. en la mas atenta y debida forma qe. a lugar alla y el derecho le permite, y digo, sr., que en el año de 27 fuy despojado de una suerte de tierra que gosaba en el parage de Los Desmontes qe. comumente. le llaman; dha. tierra se medio y documeto. Pr. mi travajo y asistencia qe. tube a la saca de ascequia que es el pri sipal cultivo y no apresiando al documento ni a mi trabajo personal tubo a bien el sr. alcalde, qe. en aquel tiempo lo fue Dn. Juan Anto. Lobato, darla pr. posecion a los qe. paresio ser de su agrado, nombrandola pr. baldia y sin ber qe. era en perjuicio de tersero; en el mismo acto registre un terreno baldio y rialengo, sin dueño alguno, en la parte y parage del Rio Grande, se me consediera una corta posecion pr. ser dho. terreno sufisiente pa. aser labor pr. fertilidad del terreno y no tener otras tierras en donde poder sembrar, por poderme mantener, y qe. se aumentaran las agriculturas, sierto me presente a la diputacion a que dho. terre. se me considiera pr. merced; se le pidio informe al alluntamiento de esta juridicion sobre el particular en lo qe. enbarasaron en sus informes qe. era perjuicio de tercero, a las poblasones, qe. en los años de secas se esterelisaban las aguas, pr. lo cual pido a S. Sa. se sirva mandar se cumplan con los decretos soberanos, se me de esta corta posecion en nombre de la suprema corte y de S. Sa., qe. Dios guarde, qe. es quien debe cumplir y aser cumplir las leyes y decretos soberanos y sus superiores ordenes de S. Sa., y qe. sea para amparo de nuestras personas y de nuestras familias. Diho. paraje es conosido pr. la parte del Rio Grande, en la junta de los rios, y no pidiendo lomas lebe de las aguas para los riegos de nuestras labores, conformandonos con unos ojos de agua qe. se allan en la cumbre de la sierra, qe. corren para ninguna fuente, solo estan inbertidos en la sierra y otros al pie de la dicha sierra; nos obligamos a esmero de nuestro travajo sacar estas aguas de insalubridad asta ponerlas en salubridad para los riegos de nuestras semiteras; y pr. ultimo nos obligamos a sercar una serca en contorno, sin perjuicio de las cañadas, trabesias, abrebaderos y sirbidumbres, quedando los cuatro rumbos para la ostencion de las asiendas y crias de animales, y nombramos pr. linderos pr. la parte del oriente el rito de la Olla, y pr. la parte del poniente un sedro urfano, y pr. la parte del sur el Rio Grande, y pr. la parte del norte la cuchia de la sierra en lo qe. a S. Sa. pidemos y plicamos se dine en atendernos en nuestra solesitud, qe. en aserlo asi resiberemos merced y gracia, qe. es lo que impetramos.

Y juramos no ser de malicia en lo nesesario. &c.

Marzo 13 de 1837.

NICOLAS SANDOVAL.
ANDRES SEDIO +.
JUAN ANTO. SANDOVAL +.
FRANCO. SANDOVAL +.
TOMAS COCA +.
FELIPE GALLEGOS.
FELIPE MESTAS +.
FRANCO. BEITA +.
RAFAEL PACHECO +.
RAMON DURAN +.
LUIS MARTIN +.

SANTA FÉ, *Marzo* 14, 1837.

Para conceder a los solicitantes el terreno q. piden salvando las formalidades prevenidas pr. la ley, el ayuntamiento de Taos informe lo q. le ocurra sobre el particular, atendiendo la recommendacion q. le mercese esta solicitud.

PEREZ.

En la sala consistorial de Taos, a los beinte y siete dias del mes de Marzo de mil ochocientos treinta y siete:

Bisto y examinado por esta corporacion el contenido de la anterior presentacion decretada por el señor gobernador; librese dho. asunto a comicion entre tres yndividudos de la misma que son D. Dabid Waldo, D. Juan Manuel Lusero y D. José de Jesus Trujillo, para que segun sus conosimientos presenten lo que allasen por conveniente.

Asi lo decreto y mando la ylustre corporacion.

JUAN ANTO. ARAGON.
JUAN ANTO. LOBATO, *Co.*

La comision encargada como se cita de arriva, despues de havernos visto y oido el presantente y los de San Francisco del Rancho, quienes son interesados en las aguas del Rio Grande, hallamos que el sitio que piden los representantes estuvo dado en el año de 1795 á varios cuidadanos del rancho pa. pastos comunes, y tambien no nos podemos conceder á la peticion por que es enteramente en perjuicio del tercero.

Taos, 28 de Marzo de 1837.

WALDO.
LUCERO.
TRUGILLO.

En San Geronimo de Taos, en treinta y un dias del mes de Marzo de mil ochosientos treinta y siete:

Reunido el ayuntamto. en las consistoriales de San Fernando, y presido por el sor. presidente D. Rafael de Luna, en consocio del sor. alcalde 2°. D. Juan Anto. Aragon: abierrta la secion se rrecibio la comicion desenpeñada que presentaron los señores que fueron nombrados dha. comicion fue aprobada por la ylustre corporacion, segun lo que esponen dhos. señores, sobre la solicitud de los que pretenden tierras para laboriar, en el terreno del Rio Grande y por lo mismo; esta corporacion ynforma el ayuntamiento al sor. gobernador que amas de lo esaminado, y palpado por los señores de la comicion esta corporacion yncuentra cresidos ynconvenientes pa. que se conseda posecion el el Rio Grande; por el notorio perjuicio de tersero que se sigue al publico del departamento del rio de las Trampas, donde se perjudican como trecientas familias que tienen tierras abajo del terreno que solisitan los presentantes; respeto que las fuentes que bañan el sitio de abajo, son mui cortos y siempre escasosas, que no alcansan a regar los labores; y que el terreno que solisitan esta posecionado en los del rancho; que se poblaron primero para pastear animales y no para laboriar por la cortedad de los fuentes; es cuanto se alla por conveniente y ynformar por la ylustre corporacion para conosimiento de S. Sa.

JUAN ANTO. ARAGON.
RAFAEL DE LUNA.

JUAN ANTO. LOBATO, *Co.*

SANTA FÉ, 20 *de Abril de* 1837.

En vista de esta solicitud y lo informado pr. el R. ayuntamiento de Taos no hay lugar para la consecion del terreno pedido para labranza.

PEREZ.

J. M. ALARID, *Srio.*

ANTONIO JOSÉ ORTIZ,
Senior Alcalde and War Captain:

We, the citizens of the rancho of our patron, San Francisco, of the Rio de las Trampas, and particularly the old natives as well as those mentioned above, appear before you and place ourselves at your feet with all humility and state.

Sir, whereas we understand that some citizens intend to ask, or have asked, for a royal grant at the Rio Grande, we, therefore, all of us, collectively and individually, state:

Sir, the settling of said Rio Grande would be doing us a great injury that we do not want to suffer, for you are well aware that said river goes dry, and our cultivable land is considerable, as you may see, and if our water is reduced there will be a great decrease in the tithes and contributions of first fruits to our holy mother church and in our means for the support of our families, and you, sir, know that we, the first settlers at said rancho, have experienced many attacks from the enemy; and, sir, it does not seem just that this injury to us should be persisted in by those parties, decreasing the water for our fields, for the want of water which we experience about the end of August and throughout September is known to everybody.

We therefore ask and pray you, in the name of our sovereign, to hearken to our petition if it be just; and we declare, before God our Father and upon the image of the Holy Cross, that this our petition is not made in dissimulation, and whatever is necessary, &c.

At the request and for all the residents of this place.

NICOLAS LEAL.

TOWN OF TAOS, *February* 2, 1795.

The petitioners will go before his excellency so that, in regard to their prayer, he may determine as he shall find to be just.

ANTONIO JOSÉ ORTIZ.

SANTA FÉ, *February* 4, 1795.

As prayed for by the parties interested.

CHACON.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 10, 1863.

The foregoing two pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,
Translator.

ANTONIO JOSÉ ORTIZ,
Senior Alcalde and War Captain:

We, José Mirabal, Antonio Fernandez, Concepcion Romero, Ventura Romero, Julian Romero, Mariano Romero, Antonio Fresqui, José Antonio Gonzales, Ana Maria Romero, Catarina Romero, all of us, collectively and each respectively, appear before you in due legal form, and state:

Sir, whereas we were the first to ask for the Rio Grande place, and having seen that other parties have also applied for it as a grant, we, those here enumerated, made the repairs, as the source of the river is becoming smaller, and there are years, too, that it goes dry; we, for these reasons, again trouble you that you may consider our case, and, if it be just to do so, may place us, the aforementioned petitioners, in possession of the place for pastures and watering-places for our live stock; and we ask that you be pleased to place us in royal possession: Wherefore,

We ask and pray you to do as we have requested, if that request be just, and we declare in due form of law that our petition is not made in dissimulation, and whatever is necessary, &c.

At the request of the parties.

NICOLAS LEAL.

Possession.

On this ninth day of April, one thousand seven hundred and ninety-five, I, Antonio José Ortiz, senior alcalde and war captain, of this town of San Geronimo de Taos and the jurisdiction thereof, in obedience to the command of Lieutenant Colonel Fernando Chacon, knight of the order of Santiago and civil and military governor of this royal province, before proceeding to the said Rio Grande place, in company with two witnesses, to wit, Cristoval Bijil and Juan Ignacio Sanchez, and the ten petitioners being present, I, said senior alcalde, explained to them the petition they had made, and informed them that to entitle themselves to said land they would have to observe and comply with, to the full requirement of the law, the following conditions:

That the tract aforesaid had to remain common to all of them; that, in consideration of the danger at that place, they had all of them to keep fire-arms, or bows and arrows, which the alcalde in office shall inspect, as well at the commencement as at any other time he may deem proper, provided that in two years after the possession is given them all the arms they may have shall be fire-arms exclusively, under the penalty that those who do not comply shall be expelled from the tract. And each and all of them having promised to comply with the conditions aforestated, they all accordingly declared that they knew and comprehended what was required of them.

I therefore took them by the hand and proclaimed, in clear and intelligible words, that in the name of His Majesty, (God preserve him!) and without prejudice to the royal possessions or injury to any third party. I led them over the land, and they plucked up grass, cast stones, and shouted aloud, Long live the King! taking possession of said land quietly and peaceably and without any opposition whatever, I designating to them their boundaries, as follows: On the south the ridge *(cuchilla)* of the Oso Mountain, on the west Miranda Valley *(Cañada de Miranda)* and the Picuries Pueblo road, on the east the spur of the Rio de Don Fernando Mountain, and on the north the boundary of Manuel Montes Bijil, notifying them that the pastures and watering-places are in common.

And that it may so appear in all time, I signed this, acting by appointment, for want of a notary, there being none, with my two attending witnesses, with whom I act, and to all of which I certify.

ANTONIO JOSÉ ORTIZ.

Witness: CRISTOVAL VIGIL.
Witness: JUAN IGNACIO SANCHEZ.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 10, 1863.

The foregoing three pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,
Translator.

His Excellency the Political Chief:

I, citizen Nicolas Sandoval, citizen and resident of San Geronimo de Taos, for myself and in the name of the undersigned, present myself before the superiority of your excellency in the most attentive and due form provided and allowed by law and state.

Sir, in the year '27 I was dispossessed of a piece of land which I enjoyed at the place Los des Montes, commonly so called. The said land was granted and deeded to me for my services and the assistance I rendered in the construction of the acequia, which is the chief work done; and, not duly appreciating either my deed or my personal service, the alcalde, at that time Juan Antonio Lovato, thought proper to give the same in possession to those who it appeared to him to be of his liking, calling it public land, without considering that he was thereby doing injury to a third party.

At the same time I registered a piece of vacant public land, having no owner, in the part and at the place the Rio Grande, [asking] that I be granted a small possession, that tract being sufficient for me to make a field, owing to the fertility of the land, I not having other lands where I could farm to enable me to support myself, and that agriculture might be encouraged.

I then applied to the deputation that the said lands be given me in grant. A report was required from the ayuntamiento of this jurisdiction in the matter, and they in their reports objected that it would prejudice third parties in the settlements, as in years of drought the waters were diminished; wherefore I ask your excellency that you be pleased to order that the sovereign decrees be observed, and that this small possession be granted to me in the name of the supreme court and of your excellency, (whom may God preserve,) who is he who should execute and cause to be executed the laws and sovereign decrees and the superior orders of your excellency, made for the protection of ourselves and our families.

Said place is known as the Rio Grande place, at the junction of the rivers, we not asking even the smallest portion of the waters for the irrigation of our fields, we satisfying ourselves with a few springs of water found at the top of the mountain, and which, not running to any collection of water, are only absorbed in the mountain, and with others at the foot of the said mountain.

We obligate ourselves, by force of our labor, to take these waters out of insalubrity and put them in use for the irrigation of our lands; and, finally, we bind ourselves to inclose with a fence all round, without any injury to the valleys, roads, watering-places, and rights of way, leaving the four sides free for the extension of farms and live-stock ranchos. And we state as boundaries, on the east side, the Rito de la Olla, and on the west side, a lone cedar, and on the south side, the Rio Grande, and on the north side, the ridge of the mountain.

Wherefore we ask and pray that your excellency be pleased to hearken

to this our petition, whereby we will receive favor and grace, which is what we seek; and we declare this is not in dissimulation, and as necessary, &c.

March 13, 1837.

NICOLAS SANDOVAL.
ANDRES SEDIO. +
JUAN ANTONIA SANDOVAL. +
FRANCISCO SANDOVAL. +
TOMAS COCA. +
FELIPE MESTAS. +
FELIPE GALLEGO.
FRANCISCO BEITE. +
RAFAEL PACHECO. +
RAMON DURAN. +
LUIS MARTIN. +

SANTA FÉ, *March* 14, 1837.

In order to grant to the petitioners the land they apply for, saving the formalities required by the law, the ayuntamiento of Taos will report what may occur to them in the matter, keeping in view the recommendation this petition merits.

PEREZ.

In the town-house of Taos, on the twenty-seventh day of the month of March, eighteen hundred and thirty-seven:

The contents of the foregoing petition, decreed upon by his excellency the governor, having been read and examined by this corporation, the said matter will be referred to a committee of three members of the same, who are David Waldo, Juan Manuel Lucero, and José de Jesus Trujillo; that they, according to their knowledge, may report as they shall find to be proper. It was so decreed and ordered by the illustrious corporation.

JUAN ANTONIO ARAGON.

JUAN ANTONIO LOVATO, *Secretary.*

We, the committee charged as above, stated, after having been seen and heard by the petitioners, and by those of San Francisco del Rancho, who are interested in the waters of the Rio Grande, find that the tract which the petitioners apply for was granted in the year 1795 to sundry citizens of the rancho for common pasturage; and, also, we cannot agree to the application, because it is entirely to the injury of third parties.

TAOS, 28th March, 1837.

WALDO.
LUCERO.
TRUJILLO.

At San Geronimo de Taos, on the thirty-first day of the month of March, eighteen hundred and thirty-seven:

The ayuntamiento being assembled, and the session being opened in the town-house of San Fernando, and presided by the president, Rafael de Luna, in council with the second alcalde, Juan Antonio Aragon, the report prepared and presented by the gentlemen appointed was received.

The said report was approved by the illustrious corporation, according to what said gentlemen state concerning the petition of those who apply for lands to cultivate on the Rio Grande tract. Wherefore this

corporation, as the ayuntamiento reports to his excellency the governor, that, besides what is reported and ascertained by the gentlemen of the committee, this corporation finds greater objections to granting possession in the Rio Grande on account of the notorious injury which will result to the people of the department of the Rio de las Trampas, where about three hundred families, who have lands below the tract which the petitioners ask, will be injured, as the springs which irrigate the tract below are very small and always scant, and do not suffice to irrigate the fields, and the land they apply for is held by the settlers of the rancho, who were the first to settle, for pasturing animals and not for cultivation, owing to the scantiness of the water-sources.

This is all the illustrious corporation finds it convenient to report for the information of your excellency.

RAFAEL DE LUNA.
JUAN ANTONIO ARAGON.

JUAN ANTONIO LOVATO, *Secretary*.

SANTA FÉ, *April* 20, 1837.

In view of this petition, and the report of the respectable ayuntamiento of Taos, the grant of land asked for agriculture cannot be made.

PEREZ.

J. E. ALARID, *Secretary*.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, January 11, 1872.

The foregoing is a correct translation of the original, in Spanish, on file in this office.

DAV. J. MILLER,
Translator.

JOSÉ MIRABEL ET AL.

RANCHO DEL RIO GRANDE TRACT.

In this case the documents on file in this office constituting and supporting the claim are all originals, embracing the following papers:

1. Petition to the chief alcalde by certain citizens of the ranchos of Trampas, protesting against the granting of the Rio Grande tract of land to certain applicants therefor, and claiming the same as their own property.

2. Reference of the petition to the governor of the province by the chief alcalde for his action thereon.

3. Grant by the governor dated February 4, 1795.

4. Petition to the chief alcalde by José Mirabal, Antonio Fernandez, Concepcion Romero, Ventura Romero, Julian Romero, Mariano Romero, Antonio Fresqui, José Antonio Gonzales, Ana Maria Romero, and Catarina Romero, asking him to place them in possession of the land.

5. Act of possession, dated April 9, 1795, executed by the said chief alcalde to the said ten grantees, and containing a designation of the boundaries of the tract.

6. Petition, dated March 13, 1837, to the governor of New Mexico by eleven persons, praying for a grant for a portion of the Rio Grande tract of land.

7. Reference by the governor of the petition to the ayuntamiento of

Taos for its report upon the admissibility of the prayer of the applicants.

8. Reference by the ayuntamiento of the matter to a special committee to investigate and report thereon.

9. Report of the committee that the land prayed for was not subject to disposal, being already held under a grant made in 1795 to citizens of the rancho.

10. Report of the ayuntamiento to the governor declining, for reasons stated, to recommend the making of the grant.

11. Decision of the governor, dated April 20, 1837, declaring the inadmissibility of the petition for the land applied for, and declining to make the grant.

This claim has been on file in this office for probably the last ten years. By whom or when filed does not appear from the docket, nor was there with the claim as filed any notice to the surveyor general or sketch of the land claimed. On the 10th of January instant the attorney of the present claimants presented a petition asking the surveyor general to take up and act upon the case at once, setting forth that the claim had been already presented to Congress, and had there been investigated and recognized; that a bill confirming their grant had passed both Houses of Congress and failed to become a law only for want of the signature of the President, and filing a printed extract from the Congressional Globe containing the debates in the House of Representatives. The case was then set for trial for the 12th instant.

The muniments in the case appear to be regular and complete. The signatures of Governors Chacon and Perez, and of the chief alcalde, Ortiz, to the documents filed, have been compared with others of theirs found in the archives of this office, and are believed to be genuine. The authority of the governor under the Spanish government to make the grant, and of the political chief under the Mexican to recognize and confirm its validity, is unquestioned and undoubted.

The title to the land claimed under the grant of 1795 was adjudicated by the political authorities of Mexico in the year 1837, upon an application for a grant for this land or a portion thereof, and decided in favor of the holders under said grant, all of which is shown by an original document filed with the case. The grant has therefore been formally recognized and respected as good and valid by the local and superior political authority of the government of Mexico in New Mexico, and its status, thus subsisting at the date of the treaty of Guadalupe Hidalgo, has not since been disturbed. It is a well-known fact that the tract has been settled and cultivated for many years, and now contains a large permanent population.

In view and consideration of the premises, this claim is approved by this office as a good and valid one under the laws, usages, and customs of the former governments of the country and under the treaty of 1848 with Mexico, and a transcript of all the papers in the case, except Document B, is hereby transmitted to the Congress of the United States, with the recommendation that the claim be confirmed to the legal representatives of José Mirabal, Antonio Fernandez, Concepcion Romero, Ventura Romero, Julian Romero, Mariana Romero, Antonio Fresqui, José Antonio Gonzales, Ana Maria Romero, and Catarina Romero.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, January 15, 1872.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, January 20, 1872.

The foregoing is a correct transcript of the original papers on file in this office in private land-claim reported as No. 58.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim, reported as No. 60, *in the name of the town of Galisteo, of February* 6, 1814. *Decided by the surveyor general of New Mexico February* 24, 1872.

TOWN OF GALISTEO CLAIM.

UNITED STATES OF AMERICA, *Territory of New Mexico :*

To the Hon. T. Rush Spencer, United States surveyor general for the Territory of New Mexico :

Your petitioners, Ygnacio Chaves, Vincente Roybal, Nicholas Pino, and others, heirs and legal representatives of Felipé Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, and Pedro Sandoval, deceased, the present owners and claimants of the Galisteo tract of land, residents of the county of Santa Fé, in the Territory of New Mexico, would respectfully represent to you that, in the year 1814, Felipé Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, Pedro Sandoval, and their associates, citizens of the village of Santa Fé, petitions his excellency the civil and military governor, Albert Maynes, for a grant to a tract of land situate in the abandoned pueblo of Galisteo; said petition was duly presented to said governor, and a grant was made to said petitioners on the 6th day of February, 1814, to the said Galisteo tract of land within the boundaries designated by said applicants. Said land is situate in the present county of Santa Fé, Territory aforesaid, and bounded on the east by the Loma Parda, on the west by an arroya, (commonly called the Infierno Arroyo,) on the south by the cañada of the Jara, and on the north by the ojito of Galisteo, as is designated in plat marked "A," accompanying this petition, all of which points and boundaries are well-known land-marks in the county of Santa Fé. The grant was made to said grantees, and to their children, heirs, and successors, in fee, in accordance with the forms of law then in force, and ever since the said grant was made as aforesaid the said grantees, their heirs and legal representatives, have held quiet and peaceable possession thereof. The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about nine thousand acres, nor can they furnish an accurate plat of survey, as no survey has been made thereof, but herewith append a plat of said grant as accurate as possibly can be made from the maps and the well-known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map.

The original grant is herewith presented, marked B, and is begged to be made a part of the petition, to be referred to whenever necessary.

The petitioners present this their said claim before you under the act of Congress approved July 20, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to-

grant donations to actual settlers therein, and for other purposes," and respectfully ask approval and confirmation of their said claim to the legal representatives of the original grantees.

S. B. ELKINS,
Attorney for Claimants.

EXHIBIT B.

Sor Gobor. politico y Militar :

Felipé Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, y Pedro Sandoval, por si y a nombre de otros compañeros, vecinos de esta villa, paresemos en debida forma que hutil mas nos sea, y decimos que allandonos con bastantes familias, aqn. mantener [torn] tener unos pedasos de tierra suficientes para adquirir la susistencia pa. ñtras numerosas familias, y teniendo lla registrado y pisado el punto de Galisteo, lavor antigua de los indios llamados los Tanos, y que habiendoce acabadose estos, sin haber quedado mas de uno u otro q. se allan separtidos en algno. pueblos de esta provincia sin intencion de abitar en sus antiguos agares; y por lo mismo a la piedad V. S. pedimos se nos adjudique de merced real, a nombre de su M. G. el rey ñtro amor qe. Dios guarde, la tierra pa. labor y patiaderos, que encierra por el oriente la L'oma Parda, por el poniente el arrollo comunmente llamado del infierno, por el sur la Cañada de la Jara, por el norte el ojito de Galisteo, que dentro de estos señalamientos de competentes terminos ag tierra y agua hasta pal. viente familias, y que en parte sera antemoral a esta villa, y ranchos, por el mucho riesgo de enemigos qe. por ese punto entran y salen con sus represas despues de haber hecho muchos muertes qe. para abitar algunos desgracias se tenia un grande destacamento de los pueblos de indios y vecinos, y que concediendocenos por merced el referido punto sera escusado lla el destacamento, cuga posecion pedimos para nos, ñtros hijos, herederos y subsesores y por tanto a la piedad de V. S. suplicamos aceda a ñtra peticion y solicitud, que de aserlo asi recibiremos merced y gracia, juraudo en debida forma no proceder de malicia esta ñtra solicitud.

Villa de Santa Fee fibrero [torn] mil ochosientos catorce.

Felipé Sandoval, Luis Lovato, Julian Lucero, Matias Sandoval, Pedro Sandoval, José Anto. Alired y Diego Pineda, &c.

Santa Fé, Febrero sies de mil ochosientos catorse.—Concedo á nombre de su M. G. el rey mi amo, el tereno que solicitan los suplicantes, dentro de los linderos que ellos señalan, albirtiendoles, que los pastos y aquas son comunes a los abitantes de esta villa y sus ranchos, para pastiar, agostar y abrebar, los caballadas y ganados mayores; lo que firmo en el referido dia mes y año.

ALBERTO MAYNES.

Es copia fiel y legal sacuda de su original aque me refiero, &c., &c.

TRINIDAD BARCELO.

Protocolado en mi oficina para su registro este dia 29 de Nov., A. D. 1870, a las dos de la tardo.

TRINIDAD ALARIA,
Escb'o de la Corte de Pruebas.

TERRITORIO DE NUEVO MEXICO, *Condado de Santa Fé :*

Yo el infrascrito escribano de la corte de pruebas en y por el condado de Santa Fé, en el Territorio de Nuevo Mexico, certifico : que la antece-

dente escritura fue protocolada en mi oficina para su registro á las dos de la tarde del dia 29 de Noviembre, A. D. 1870; y que en el mismo dia fué enregistrado por mi en el libro letra E de registros de documentos de terrenos, paginas 446 y 447, el cual es tenido en esta oficina con tal objecto.

En testimonio de lo cual pongo mi nombre y el sello de dicha corte, en Santa Fé, N. M., este dia 29 de Noviembre, A. D. 1870.

[SELLO.] TRINIDAD ALARID,

Escribano de la Corte de Pruebas y Ex-officio Registrador.

[Translation.]

To his Excellency the Civil and Military Governor:

We, Felipe Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, and Pedro Sandoval, for themselves and in the name of other associates, citizens of this village, appear in due form, and say: That, having large families to support, we are desirous of some pieces of land sufficient for the maintenance of our large families, and having already registered and examined the place Galisteo, being the old field of the Indians called the Tanos, and the said Indians having become extinct, there remaining but few, who are scattered among some other pueblos of this province, they having no intention of living at their old homes, we therefore pray your excellency that there be conceded to us the said land, as a royal grant, in the name of His Majesty the King, our master, (whom may God preserve,) for cultivation and pastoral grounds. Said tract of land is bounded on the east by the Loma Parda, on the west by the Arroyo, (commonly called the Infierno Arroyo,) on the south by the Cañada de la Jara, and on the north by Ojito of Galisteo, within which ample limits there is sufficient land and water for as many as twenty families. And said place will, in part, be a protection for this village and ranches, owing to the great risk from the enemy, who passes to and fro with his spoils, after having committed many murders; and in order to prevent depredations, a strong detachment of Pueblo Indians and citizens was kept stationed there; and by granting to us the said place as a grant the said detachment would then be unnecessary—which grant we ask for ourselves, our children, our heirs, and successors. Therefore we pray your excellency to accede to this our petition and application, whereby we will receive benefit and favor, we declaring in due form that this our petition is not made through dissimulation.

Village of Santa Fé, February, [torn,] eighteen hundred and fourteen.

Felipe Sandoval, Luis Lovato, Julian Lucero, Matias Sandoval, José Anto. Alarid, and Diego Pineda, &c.

Santa Fé, February sixth, eighteen hundred and fourteen.—I grant, in the name of His Majesty, my lord, the King, the land petitioned for by the applicants, within the boundaries as designated by them, giving them to understand that the pastures and waters shall be free to the inhabitants of this village and its ranches for pasturing and herding their horses and cattle thereon, which I sign on the said day, month, and year.

ALBERT MAYNES.

A true and legal copy taken from the original, to which I refer, &c.

TRINIDAD BARCELO.

The above and foregoing is a correct translation of the original in

Spanish made by me, and the same is a correct translation to the best of my knowledge and belief.

SAMUEL ELLISON.

Sworn to and subscribed before me this July 20, 1871.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, July 31, 1871.

The foregoing translation having by me been compared with the original in Spanish and found correct, the same is hereby adopted.

DAV. J. MILLER,
Translator.

Testimony.

TOWN OF GALISTEO.

AGUSTIN DURAN, being by the surveyor general sworn, on his oath answers as follows:

Question by Samuel Ellison, as attorney for the claimants under alleged grant to Galisteo. What is your name, age, and residence?—Answer. My name is Agustin Duran, my age is seventy-nine years, and I reside here at Santa Fé. I was born here, and have always lived here except about five years that I resided at the city of Chihuahua.

Q. Do you know the town of Galisteo; and if so, where is it situated?—A. I know the place well. It is in the county of Santa Fé, and to the south of the city of Santa Fé.

Q. How long have you known the place?—A. From the year 1814 till now.

Q. State, if you remember, who resided at Galisteo in 1814.—A. There resided there then Felipe Sandoval, Luis Lovato, Julian Lucero, José Antonio Sandoval, *alias* Bachicha, and I remember none others, but there were others whom I cannot now name.

Q. State, if you can, who was governor of the province of New Mexico in the year 1814?—A. I think it was Facundo Melgares, who, I think, it was who gave me in that year an escort of men to accompany me to the Arkansas River in search of my brother, though it may have been Governor Manrique instead of Melgares.

Q. Who relieved Governor Alencaster, if you remember, and when did he relieve him, as governor of this province?—A. It was Alberto Maynes who relieved Alencaster as governor. The time I do not distinctly remember, but it was about 1814 or 1815.

Q. Did you know Trinidad Barcelo; and if so, can you state whether he held any public office in or about the year 1814?—A. I did know him, and he was then either secretary of the prefecture or alcalde at Santa Fé.

Q. Have you seen him write?—A. I have seen him write often.

Q. What writings have you seen him write?—A. I can name no documents he wrote, but his manner of writing and his style I knew well. His handwriting was plain, round, and clear.

Q. Do you recollect his manner of signing his name, and whether he used a rubric?—A. He signed his name Trinidad Barcelo and used a rubric, as was required by the law, and without which no signature was valid.

Q. (By Kirby Benedict, attorney for E. W. Eaton, contestant of the claim.) State what kind of or describe the rubric used by Barcelo.

(Question objected to by Mr. Ellison. Objection overruled by surveyor general.)

A. His rubric was made by commencing at the end of his signature below, and running backward and forward under it.

Q. (By Mr. Ellison.) Do you recognize the signature of Barcelo at the end of the document B in this case, now shown you?—A. I have examined the document and the signature, and am satisfied the document is in the handwriting of Barcelo, and that the signature at the end thereof is his genuine signature.

Examination at this point adjourned to 11 o'clock to-morrow morning, December 2.

Eleven o'clock a. m., December 2, the respective parties appeared and agreed in substance as follows: The attorneys for the claimants of the Galisteo town grant agree to relinquish and quit-claim all right, title, and interest of said claimants in and to that portion of the said Galisteo town grant which conflicts with, or lies within, the limits of the grant confirmed to E. W. Eaton, No. 16, by act of Congress approved June 21, 1860; and it is now understood and agreed that this agreement shall be made in writing and then filed with the papers in this case in this office, and upon being executed and so filed, the said Eaton, in virtue thereof, covenants to withdraw all further opposition to the approval of said Galisteo grant.

Examination of the witness Agustin Duran continued, as follows:

Q. Do you know the town of Galisteo? And, if so, state how long you have known the place as a town and where is said town situated.—A. I know the town of Galisteo, and have known it since the year 1814, before which year I have no personal knowledge of the town, but always understood it had been in existence since long before that year. The town is situated south of the city and in the county of Santa Fé.

Q. What is the distance of the town of Galisteo from the city of Santa Fé?—A. About nine leagues somewhat, more or less.

Q. Has the place Galisteo been continuously occupied as a town since 1814?—A. It has.

AGUSTIN DURAN.

Sworn to and subscribed before me this December 2, 1871.

T. RUSH SPENCER,
Surveyor General.

DONACIANO VIGIL, being by the surveyor general sworn, on his oath declares:

Question. What is your name, age, and residence?—Answer. My name is Donaciano Vigil, my age is sixty-nine years, and my residence is the Pecos River, in the county of San Miguel, about eight leagues from the town of Galisteo.

Q. State, if you know, who was the governor of the Province of New Mexico in or about the year 1814.—A. Alberto Maynez.

Q. Did you know him personally?—A. I did.

Q. Did you know Trinidad Barcelo, and, if so, are you familiar with his handwriting?—A. I knew him personally and am familiar with his handwriting.

Q. What was the character of his writing?—A. He wrote a bold, free hand, of rather ancient style.

Q. Please examine document B, in this claim of Galisteo, and state whether the handwriting is Barcelo's and the signature.—A. I have examined the document referred to, and am of opinion that the body of said document is not in Barcelo's handwriting; but that the signature thereto, purporting to be his, is his genuine signature.

Q. State, if you know, what office, if any, Barcelo had under the Spanish or Mexican government.—A. I know of no office he ever so held, nor any whatever, until about the time of the occupation of New Mexico by the American Government, at the time of which event he was clerk of the circuit court under the Mexican government, and had been about a year.

Q. Please state whether you know the town of Galisteo, and, if so, how long you have known the place, and state where it is situated.—A. I know the place mentioned, and have known it all my life; it is situated eight leagues south of the city, and in the county of Santa Fé.

Q. Was the place Galisteo a town when the United States took possession of New Mexico, and, if so, how long had it existed as such town?—A. When the United States took possession of the country the town of Galisteo existed the same as it does to-day. From about the year 1790 to 1795, as the archives show during the administration of Governor Chacou or de la Concha, there was first built a house there for the use of a detachment of troops, which from that year to 1814 was stationed there. In the year 1814 Governor Alberto Maynez made a grant for the land at Galisteo to the following grantees, as well as I can now recollect the individuals, viz: Vicente Roibal, Rafael Lugan, Miguel Ortiz, Luis Lovato, Bartolome Lovato, Antonio Anaya, Ignacio Chaves, Felipe Sandoval, Matias Sandoval, Pedro Sandoval, Alejandro Lovato, Petrona Pineda, José Antonio Sandoval, Manuel Trujillo, Miguel Lovato, José Chaves, Miguel Roibal, and a widow woman who went from the Rio Tesuque, and it may be that I have omitted to mention some of the grantees.

Q. How did you become acquainted with the facts you have stated as such, and how do you know the persons you have named were grantees in the Galisteo grant?—A. Because I resided there in the years 1819 and 1820; and my father occupied a portion of the land under one of the grantees while I was a member of my father's family; and I have seen the original grant and the list of the grantees, both of which I saw in the year 1831 or 1832 in the office of the *ayuntamiento* of Santa Fé, I being at that time secretary of the military commandancy of New Mexico, and having free access to the records and archives of the government, to which I frequently had occasion to refer.

Q. Please again examine document B and then state whether, according to your recollection, the same is a copy of the document you have just mentioned as having seen at the office of the *ayuntamiento* of Santa Fé.—A. I have examined as requested, and am of opinion that the document is a copy of the one I saw at the *ayuntamiento*, but it is not identically the same, for the one I there saw was an original document, and bore on the margin the granting decree of Governor Maynez.

Q. What offices have you held in New Mexico under the governments of Spain and Mexico, if any?—A. Under the Spanish government I never held any office, but under the Mexican government I was continually in office from the year 1824 till the American Government took possession of this country in the year 1846 with the military forces commanded by General Kearney, and at the time of that event I was in the military service of Mexico, being then a captain of the line and secretary of the military commandancy, which latter position I had held and exer-

cised since the year 1824. At the time of the organization of the provisional government of New Mexico by General Kearney, September 22, 1846, I was appointed secretary of said provisional government, in which office I served until the 28th of February, 1851, when the existing territorial government went into operation, acting as governor in the mean time from January, 1847, when Governor Bent was assassinated, until Governor Calhoun was inaugurated under the present organic law on the 1st of March, 1851.

DONACIANO VIGIL.

Sworn and subscribed before me this December 2, 1871.

T. RUSH SPENCER.
Surveyor General.

Agreement.

TERRITORY OF NEW MEXICO,
Office of Surveyor General, December, 1871.

IGNACIO CHAVES, VICENTE ROYVAL, NICOlas Pino, and others, alias town of Galisteo, *vs.* THE UNITED STATES.	Petition for confirmation of grant of land.

Be it remembered that in this case E. W. Eaton has been admitted to defend against the petition of the claimants, and those claming by, through, or under them; and whereas the interest which the said Eaton has to make such defense is based upon the claim and pretension of said petitioners that the grant set up and insisted upon by them extends within and includes a portion of the land confirmed to said Eaton by an act of Congress, and which act designates the grant of land so confirmed as number sixteen; and whereas the said claimants and petitioners and said Eaton have mutually agreed to compromise and settle the dispute between them: therefore, the said petitioners, and all those claiming by, under, or through them, do hereby covenant and agree to and with the said Eaton that they forever quit-claim and release to the said Eaton any and all right, interest, claim, and pretensions which they or either of them have had, or have, to any part or parcel of land which extends or is included within the grant of land as aforesaid confirmed to the said Eaton; and it is further covenanted and agreed between the parties hereto that, in case the surveyor general, upon the hearing of the proofs of the said petitioners and claimants, shall be of opinion that the claim set up and insisted upon by them ought in right, justice, and truth be confirmed to them, or any part of the same, then the said surveyor general, in such decision, opinion, or judgment as he may render, may expressly define and limit the grant to the petitioners and claimants so that it shall not extend within nor include any portion of the lands confirmed as aforesaid to the said Eaton in the grant numbered as aforesaid.

And inasmuch as the said claimants and petitioners, for themselves, and all those claiming by, through, or under them, do quit-claim, release, and covenant, and agree as herein stated, the said Eaton is not interested in further defending and resisting the petitioners in this case; he therefore withdraws from making further opposition in this case upon this agreement being signed by the parties or their representatives in the said office in this behalf, and placed among the papers in the case for the proper consideration and guidance of the surveyor general, in case he shall adjudge in favor of the said petitioners and recommend

the confirmation by Congress of any portion of the land claimed by them, and which shall not extend or be included in the grant heretofore confirmed to the said Eaton.

Signed at Santa Fé, in the said Territory of New Mexico, this 2d day of December, 1871.

S. B. ELKINS, [SEAL.]
Attorney for Claimants Galisteo Grant.
E. W. EATON. [SEAL.]

Filed in the surveyor general's office this December 9, 1871.

MILLER, *C. C.*

Decision.

TOWN OF GALISTEO.

This case was filed in this office July 20, 1871, by the attorney for the present claimants of a certain tract of land in the county of Santa Fé, embracing the town of Galisteo, and said to contain about nine thousand acres, the parties claiming said land as heirs and legal representatives of the grantees Felipe Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, and Pedro Sandoval, deceased. The claim was filed, duly accompanied with a notice to the surveyor general, translation of the title papers presented, and sketch-map of the land claimed.

The muniment, a single paper, constituting the claim, and filed as above as document B, purports to be an authenticated transcript of an original grant of land made on the 6th day of February, 1814, by Alberto Maynez, civil and military governor of the province of New Mexico, under the Spanish government, and shows:

1. The petition, dated Santa Fé, February, 1814, of Felipe Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, Pedro Sandoval, José Antonio Alarid, and Diego Pineda, addressed to the civil and military governor, praying for a piece of pastoral and agricultural land at the abandoned Indian pueblo of Galisteo, stating the boundaries of the land as being on the north, the little spring of Galisteo; on the east, the Loma Parda; on the south, the Jara Valley; and on the west, the Infierno Arroya.

2. The decree of Governor Maynez, dated February 6, 1814, granting to the petitioners, in the name of the King, the land by them applied for, unconditionally, but reserving for the people of Santa Fé and vicinity the privilege of pasturing and herding their live-stock on the land.

3. The original certificate of one Trinidad Barcelo, bearing no date or locality, and indicating no official character that the transcript was a true and legal one.

4. The certificate dated November 29, 1870, signed by Trinidad Alarid as clerk and recorder of Santa Fé County, New Mexico, attested by the seal of the county, that the foregoing document was recorded in his office.

Notice of intention to oppose the approval of this claim having been given at this office on the 25th of October last by E. W. Eaton, as owner of the adjoining confirmed private land-claim No. 16, the San Cristoval grant, with which this claim conflicted, the case was set for a hearing for December 1, and the parties, claimants and contestant, notified. They appeared by their attorneys, and witnesses were examined on that and the following day. In the mean time, and pending the hearing before the surveyor general, the parties compromised the question at issue between them, the Galisteo claimants covenanting to relinquish all that portion of the tract claimed by them which conflicts with said San

Cristoval grant, a formal written agreement to that effect to be subsequently executed and filed with the papers in this case, and which document was accordingly filed on the 9th of December.

At the investigation on the merits of this claim two witnesses were examined. The witness Duran declared that he had known the town of Galisteo from the year 1814, and that it had been continually occupied since that year; that Alberto Maynez succeeded Alencastor as governor of New Mexico about the year 1814 or 1815; that he knew Trinidad Barcelo, who was, in 1814, either secretary of the prefecture or acalde, and that his signature to the certificate of authentication on document B before mentioned was genuine. The witness Vigil testified that the town of Galisteo was an old settled town still existing; that Alberto Maynez, whom he knew personally, was governor of New Mexico in the year 1814, and that in that year he made a grant of land at Galisteo to at least eighteen grantees, named by the witness, which grant, as well as a list of the grantees, he saw forty years ago in the office of the *ayuntamiento* at Santa Fé; that he personally knew Trinidad Barcelo, and was acquainted with his handwriting and signature, and that the latter borne by said document B was his genuine signature.

As the document filed as the basis of this claim is but a copy of an alleged original grant, purporting to have been made in the year 1814 by Governor Alberto Maynez, authenticated as a copy in a manner showing no official character or authority in the premises, and as no data of any such concession has been found among the archives or records of this office, and especially as said archives and records show that José Manrique, and not Alberto Maynez, was governor of New Mexico in the year 1814, all the evidence and circumstances produced and observed in the investigation of the merits of this claim have been carefully noted and considered.

The claimants have filed in this case the said copy, and in their notice to the surveyor general represent it as an original grant; they ignore the fact that it is *prima facie* a copy, and that, being such, the absence of the original must be accounted for, or due diligence be shown to have been exerted to find and produce it. This the claimants have entirely failed to do, either by declaration in their notice or by the testimony of witnesses.

The document is stated to be a true copy by one Trinidad Barcelo. His certificate sets forth no date or locality, nor does it state or in any manner indicate in virtue of what authority or in what official character or capacity he certified, nor does it show the motive of the certificate, or in what depository the original of the copy was found or remained. The witness Duran states that Trinidad Barcelo was, in 1814, when this grant is said to have been made by Maynez, either secretary of the prefecture or alcalde, and the witness Vigil states that he never knew Barcelo to have held any office until about the time of the transfer of national sovereignty over New Mexico in 1846. There is nowhere any evidence on the files of this office or elsewhere shown that he was secretary of state or had any official connection with the general government of the province. The time of the certificate could not have been in 1814, when Duran says he was secretary or alcalde, because the grant by Maynez could not have been made in that year, as appears to the satisfaction of the surveyor general, as hereinafter explained. His power to authenticate transcripts is not shown or indicated by statement of rank or faculties, and whether he possessed it or not it is not shown in his certificate or otherwise that he was in the exercise thereof at the time he certified to the copy in question.

As no register or book of records of the acts of the provincial governments of about the period of Governor Maynez's incumbency can be found to consult, the surveyor general, in searching for light in the investigation of land-grant claims, is obliged, in this as in other cases, to depend in a great degree for his information upon that afforded by the old archives preserved in his office. These he has consulted in this case, and from them it appears that Governor Maynez did make, in the year 1816, to a number of individuals at Galisteo a verbal grant for lands there, and that in the year 1822 the alcalde, in virtue of that verbal concession or authority, and by direction of the *ayuntamiento* of April 8 of that year, placed certain individual parties in formal possession of these lands, which he states they had been occupying and cultivating during the previous six years, some of them, it appears, being the identical individuals named as grantees in the claim of 1814, now in investigation. Five of these acts of possession, each bearing date April 29, 1822, made respectively to José Antonio Alarid, Maria Nieves Mirabal, Matias Sandoval, Rafael Sena, and Filipe Sandoval, at least three of whom appear as grantees in the claim of 1814, are found among said archives, files 58, 616, 892, 893, and 894 thereof; and they each recite substantially that, whereas the *ayuntamiento* of Santa Fé had, on the 8th day of April, 1822, as appeared from its recorded proceedings of that day, directed the constitutional alcalde to execute acts of possession for lands to the nineteen settlers at Galisteo, shown in a list on file among the archives of his office formed six years before, when Acting Governor of the Province Alberto Maynez made a verbal order in virtue of which the grantee had already held the land six years, he, the alcalde, therefore declared said party invested with title in fee to the land there described by extent and boundaries and given in possession, and further declared that any other title thereafter appearing for said land was invalid and of no force.

From these documents, the signature to each of which of the Alcalde Pedro Armendariz is known to the office, it appears, or is rationally deducible, that there was no general or community grant to the town of Galisteo, such as alleged by the claimants in this case, and that, so far as has been made known to this office, there was no written grant or original title for the lands at Galisteo, except that referred to and executed as above by the alcalde to individuals for distinct tracts, and other than which the alcalde announced and declared no legal one existed. And the apparent non-existence of any such general grant is corroborated by testimony taken before the surveyor general on the 23d ultimo and the 3d and 5th instants, in the matter of the application of E. W. Eaton for a resurvey of confirmed private land claim No. 16, the San Cristoval grant. In that case, the witness Amaya, who had resided at Galisteo for twenty-odd years prior to 1840, testified he never knew of any grant to the people of that town. The witness Joaquin Chaves testified he had resided there since 1822, and was not aware of any general grant to the town or people, but was aware that the land had been divided out to eighteen or nineteen individuals in tracts of 100 by 1,000 varas in size, on the Galisteo River, under verbal authority of Governor Maynez, in the year 1815 or 1816, and afterward, in 1822, given in possession to said individuals. And the witness Sandoval, formerly alcalde and member of the *ayuntamiento* of Santa Fé, now territorial adjutant general and auditor, testified that the land at Galisteo was applied for in 1815 or 1816 by his grandfather as the principal petitioner, and the alcalde placed the applicants in possession in the latter year, according to his recollection; that this title from the alcalde, under which

he understood the people still held their lands, was the only one ever received by them, as he recollected; that he knew of no general grant for the land, and that, from his familiarity with the affairs of Santa Fé and Galisteo, he did not believe any such grant or any title whatever, other than that described as from the alcalde, could have been extant without his knowing it.

If there was, indeed, a grant made by Governor Maynez in the year 1814, as positively stated by the witness Vigil, to the grantees named as such in the claim presented, what was the motive or necessity for the grant to the same parties in the year 1816, and how can the statements of the alcalde in 1822 be reconciled to the facts in the case? Vigil states that in the year 1831 or 1832 he saw in the office of the *ayuntamiento* at Santa Fé the grant to Galisteo made by Maynez in 1814, and names eighteen of the grantees, one of them a woman from Tesuque. The petitioners and grantees in that claim are but seven in number, and they were all residents of the city of Santa Fé and were all males, as set forth in their petition and indicated by their names.

If, notwithstanding the statement of the witness Vigil, there was not such a grant, his testimony may, nevertheless, be reconciled to the fact without prejudice to his honesty and good faith. As the record of the action of the *ayuntamiento*, itself more or less in the nature of a grant referred to by the alcade in his acts of possession and not mentioned by the witness, was most likely to be seen at the office of that body, and as the unreliability of men's memory over an interval, as in this instance, of forty years, is undeniable, the conclusion is, in view of the ascertained facts in this case, that what the witness there saw was the action of the *ayuntamiento* of 1822, concerning the verbal authority of Governor Maynez of 1816, therein cited, concerning the lands at Galisteo, which were immediately thereafter given in possession to the grantees by the alcalde in pursuance of the action of the *ayuntamiento*. This theory is sustained by the circumstance that the witness stated that he saw, at the same time and place, a list of the grantees. Such a list, of nineteen individuals, being the grantees in the grant of 1816, was on file at the office of the *ayuntamiento*, as appears from the acts of possession of 1822, and one of these grantees was a woman; and further, the names of some of the grantees mentioned by the witness are identical with those mentioned in the said acts of possession. It is therefore believed that, as the witness Duran was clearly mistaken in the succession of governors in stating that Maynez succeeded Alencaster, whereas our archives show that Manrique intervened, so the witness Vigil was mistaken in stating that Governor Maynez, in the year 1814, made a grant of land to the town of Galisteo, whereas our archives show, beyond question, that Maynez was not governor in that year.

If Alberto Maynez was governor of New Mexico in the year 1814 the claim in this case is consistent in its alleged emanation; if not, it is from that circumstance *per se* fraudulent, null, and void. There being no standard history of the country, the yet more reliable data and authority of the old archives in this office pertaining to the provincial government of New Mexico of the period in question must be consulted, and they seem to determine the question conclusively. From them it appears that José Manrique, in 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, Alberto Maynez, in 1815, 1816, 1817, were the governors of the province during the period and particularly the year concerned in the investigation of this claim. From the evidence afforded by this statement it is manifest that this claim, the alleged grant of 1814, for land to the town or people of Galisteo, is destitute of legitimate origin and

foundation, and has no legal existence, and must be treated as null and void from the beginning.

In view and consideration of all the premises, this claim is believed to be one which, in law and equity, would have been declared fraudulent and void by the government of the Republic of Mexico, and one which, tried with the same test by the Government of the United States and by the stipulations and principles of the treaty of Guadalupe Hidalgo, must be disapproved and declared invalid, and the same is disapproved, and a transcript of all the papers in the case is transmitted for the action of the Congress of the United States, with the recommendation that the claim be rejected.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, February 24, 1872.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, February 28, 1872.

The foregoing is a correct transcript of the original papers on file in this office in private land-claim reported as No. 60, in the name of the town of Galisteo.

T. RUSH SPENCER,
Surveyor General.

Transcript of private land-claim reported as No. 59, *being grant to José Miguel de la Peña and others, made April* 20, 1788, *for the Serrillos tract, decided by the surveyor general, New Mexico, January* 31, 1872.

JOSÉ MIGUEL DE LA PEÑA ET AL.

NOTICE OF PRESENT CLAIMANTS.

To the surveyor general of New Mexico:

Your petitioners, the heirs of Manuel Delgado, respectfully represent that some time previous to the year 1788, (the exact time your petitioners cannot now state,) the government of Spain, through its legal and authorized agents, granted to one Alonzo Real de Aguilar a certain tract or piece of land, situate in the county of Santa Fé and Territory of New Mexico, said Territory then being a part of the Spanish provinces in North America, said land then and now being commonly known as Los Serrillos, and which is bounded and described as follows, to wit: on the north, by the Cañada de Juicu and the land of the Bacas; on the south, by the Cerros Altos; on the east, by the road that leads to Galisteo, measuring from east to west 2,500 varas; that after said grant was made as aforesaid it was abandoned until the 20th day of April, 1788, on which day one José Miguel de la Peña, husband of Maria Real, one of the descendants of said Alonzo Real de Aguilar, made and presented to Fernando de la Concha, then captain general and governor of New Mexico, a petition setting forth that inasmuch as said grant had been made to said Alonzo Real de Aguilar, but had been abandoned, that he would be pleased to grant it to him, the said petitioner, which the said governor and captain general did, and on the 12th day of June, 1788, by order of said governor, said José Miguel de La Peña was duly and legally placed in possession of the one-third part of said land or

grant, said one-third part being bounded as follows, to wit: being on the western part of said grant, and bounded on the west, by the lands of Cleito Miera, and on the east, by lands belonging to Teresa Real de Aguilar, and on the other sides, north and south, the same boundaries mentioned in said grant, and measuring from east to west 833 varas, all of which will more fully appear by reference to the petition of said José Miguel de la Peña, the order of the governor and the certificate of the alcade, the originals of which are now on file in your office, but copies accompany this petition and are marked A.

Your petitioners further state that it appears by the various papers, filed with this petition, that there were two other heirs of Alonzo Rael de Aguilar, besides the wife of said José Miguel de La Peña, placed in possession of said grant, there being one-third apportioned to each heir.

Your petitioners further state that on the 1st day of July, 1793, one Antonio Analla, one of the heirs of the said Alonzo Rael de Aguilar, sold and conveyed to one Manuel Delgado, grandfather of your petitioners, for a good and valid consideration, 277 varas, from east to west on said grant, joining and contiguous to the part granted to José Miguel de La Peña, on the west, and afterward on the 8th day of September, 1810, one Salvador Martin sold and conveyed to said Manuel Delgado a certain other portion of said grant, measuring from east to west 150 varas; said piece or portion joining on the west the 277 varas sold by Antonio Analla to said Delgado; all of which will more fully appear by reference to deeds of said Martin and Analla, now on file in your office. Copies of which, marked B and C, also accompany this petition.

Your petitioners further state that on the 18th day of February, 1791, said Jose Miguel de la Peña sold and conveyed to one Cleito Mierra his said portion of said grant of Serrillos measuring 833 varas from east to west and afterwards the said Cleito Mierra, being also the owner of 225 varas of land lying on the west and forming the western boundary of said grant, on the 4th day of December, 1804, sold and conveyed both of said pieces of land to said Manuel Delgado for a good and valid consideration, as will more fully appear by reference to the original deeds of conveyance now on file in your office, copies of which also accompany this petition and are marked A and D.

Your petitioners further state that the 225 varas of land sold as aforesaid by Clieto Mierra to Manuel Delgado was granted to said Mierra by said Fernando de la Concha and was bounded on the west by lands of Pedro Pino, and on the north and south by the boundaries of the Serrillos grant, and on the east by lands of said Mierra.

Your petitioners further state that by virtue and force of the deeds aforesaid the said Manuel Delgado became and was the owner of 1,260 varas from east to west on the Serrillos grant and 225 varas additional on the west boundary thereof, making in all 1,485 varas of land from east to west and bounded on the north by the Cañada de Juicu and land of the Bacas, on the south by the Cerros Altos.

Your petitioners further state that said Manuel Delgado, during his lifetime and from the dates respectively of the deeds aforesaid, occupied and was in possession of the lands therein named until his death, and by his last will and testament, the original of which is also on file in your office, devised said 1,485 varas of land to one of his sons, Manuel Salustiano Delgado, the father of your petitioners, who also occupied, possessed, and cultivated said land until the date of his death, since which time until the present your petitioners have also peaceably and quietly had the possession of said land, cultivated the same, and are now in possession thereof; that your petitioners know of no adverse

claim ever having been urged to said lands by any one; that the same is now in a high state of cultivation.

In consideration of the premises your petitioners ask that said piece of land be confirmed to them.

S. B. ELKINS,
Attorney for Petitioners and Claimants.

JUNE 29, 1871.

[THE GRANT.]

[SELLO.] Seis reales; Sello segundo, seis reales; año de mil setecientos ochenta y ocho y ochenta y nueve.

Señor Govr. y Capn. Genl.:

Joseph Migl. de la Peña, vezino desta villa de Sta. Fé, ante V. S. paresco en la mas bastante forma quanto a derecho ay a lugar y digo: Señor, que tengo registrado un pedaso de tiera que esta en el parage que yaman de Los Seryos, el qual parage o sitio fue resien conquistado este reino de Dn. Alonso Rael de Aguilar, aque lo que fue de mi esposa Maria Rael, y por abe yo dejado tantos años despoblado y aber perdido el derecho que dho. Dn. Alonso tenia, aora, senor, lo pido a V. Sa., en nombre de su magd. con todas sus entradas y salidas, pastos y abrevaderos, usos y costumbres, para mi, mis hijos, herederos, persona ò personas que fueren de mi utilivoluntа, para poder senbrar, y mantener los animales que fuere Dios serbido dar me y prometo poblar dho. sitio segun la mente de su magd. y lo dispuesto por sus reales ordenansas. Por todo lo qual y lo que a mi fabor combenga.

A V. S. pido y suplico con el mas profundo rendimiento se sirba de atenderme y haserme merced, en nombre de su magd, lo q. espero consegir mediante su gran justificacion y la asertada y segura distribusion de su gusticia que mediante esta prober a Vsa. lo que mas por conbeniente ayare ynploro el real ausilio de Vsa. y juro en toda forma no ser de malicia este mi escrito; y en lo necesario, &c.

JOSEPH MIGL. DE LA SENA.

STA. FÉ, 20 *de Abl. de* 1788.

Hallando por combeniente el cultivo de la tierra de que trata esta instancia, passe al sitio que cita y puse en posesion de ella al suplicante, y demas herederos del difunto Dn. Alonso Rael de Aguilar, y pa. que en todos tiempos conste, se formalizarán los documentos correspondientes á su favor por el alcalde mar. de esta villa Dn. Josef Antonio Ortis.

CONCHA.

En esta villa de Sta. Fee, en 12 dias del mes de Junio deste año de mil setecientos y ochenta y ocho, yo, el capn. de milisias y alcalde mayor desta villa, en virtud de la orden y decreto qe. antecede de el señor thte. coronel y gobernador politico y militar deste reyno, Dn. Fernando de la Concha, pase al puesto y paraje qe. comunmente yaman Los Serrillos, y sin enbargo de aver metido en posesion al suplicante el dho señor thte. coronel coji de la mano a Dn. José Miguel de la Peña y lo pacie por el sitio, aranco sacates, tiro piedras, dio boses, diciendo, Viva el rey nuestro señor, qe. Dios guarde, tomando posesion de dhas tieras quieta y pacifica, sin contradision alguna, señalandole los linderos, qe. lo son: Por el norte con los linderos de la Cañada del Guycu y tieras de Los Bacas; por el sur con Los Serros Altos; por el oriente con el camino camino qe. ba para Galisteo; y costa dho. sitio por sus medidas de oriento a poniente dos mil y quinientas varas, y repartido dho. sitio en

tres partes se tocaron a dho. Dn. José Miguel de la Peña ochosientas y treynta y tres varas, en la parte del poniente qe. linda con tieras de Dn. Cleto Miera, y por el oriente con tierras de los herederos de Dn. Anto. Teresa Rael de Agilar, y por los otros rumbos los mismos linderos qe. resan la donacion qe. antesede, alvirtiendole qe. pastos y abrevaderos son comunes; y para que en todo tiempo coste lo firme, actuando por resetoria con los testigos de mi asistencia, por la notoria falta de escribano publico ni real qe. de ninguna clase los ay en este reyno; qe. de todo doy fee.

ANTO. JOSÉ ORTIZ.

ANTO. JOSÉ ORTIZ.
JOSÉ MIGUEL ORTIZ.

En esta villa de Santa Fé, en 18 dias del mes de Febrero de mil setecientos y noventa y un años, ante mi, Dn. Anto. José Ortiz, capn. de milisias y alcalde mayor de esta referida villa, conparecio el ariba contenido Dn. José Miguel de la Peña, a cuyo fabor se otorgaron los dos documentos qe. se demuestran, y dijo que con la benia y boluntad de sus hijos y muger traspasaba y traspaso en Dn. Cleto de Miera y Pacheco la aucion, derecho y domisilio que tenia alquerida del parage nombrado Los Serillos, como costa de los documentos de ariba, que a su fabor se otorgaron; los que dijo que traspasaba con todo el derecho qe. se requiere en el susdho Dn. Cleto Miera, por aberle dado este cuatrosientos y sincuenta pesos al coriente de la tiera, los qe. dijo dho. Dn. Jose Miguel de la Peña aver recividos a su satisfacion y contento, de cuya cantidad se da por contento satisfecho y pagado, que si de aqui en adelante baliere mas de todo le ase grasia y donasion pura mira, perfetos, ynrebocable qe. el derecho yama ynter bibos, y que puheda y use de el segun su voluntad. y dijo el espresado Peña qe. renuncia todas y cualesquiera leyes, requisitos y sircustancias qe a su fabor ablen; y me rogo qe como alce. mayor interpusiera mi autoridad y decreto judicial; y yo dho alce. mayor dijo qe. lo antoponia e ynterpuse cuanto por derecho me conferido y para qe. coste lo firmo conmigo el espresado qe de. todo doy fee.

ANTO JOSÉ ORTIZ.
JOSEPH MIGL. DE LA PEÑA.

Este titulo es registrado en el libo letra D, folio 6, y para que conste lo certifico, firmo y sello con el sello de esta oficina en tanta Fé, hoy veinte y cinco de Septiembre de mil ochosientos cinquenta y dos.

[SEAL.]

JOHN GREINER,
Secretary Territory New Mexico.

Filed in my office this 17th day of March, 1854.

L. D. SHUTZ,
Clerk.

Protocolado en mi oficina para su registro este dia 28 de Junio, A. D. 1870.

TRINIDAD ALARID,
Escribano de la Corte de Pruebas.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Yo, el infrascrito escribano de la corte de pruebas en y por el condado de Santa Fé, en el Territorio de Nuevo Mejico, certifico que el antece-

dente titulo ó instrumento escrito fué protocolado en mi oficina para su registro el dia veintiocho de Junio A. D. 1870, á las once del dia, y que el mismo fué enrregistrado por mi el mismo dia en el libro letra E de registros de documentos de terrenos &c., paginas 382, 382, 384 y, 385 el cual es tenido en esta oficina con tal objecto.

En testimonio de lo cual pongo mi nombre y el sello de dicha corte en Santa Fé, N. M., hoy el dia 28 de Junio, A. D. 1870.

[SEAL.]

TRINIDAD ALARID,
Escribano de la Corte de Pruebas and ex-officio Registrador.

[Accompanying translation.]

[SEAL.] Six shillings; second seal, six shillings; year seventeen hundred and eighty-eight and eighty-nine.

His Excellency Governor and Captain General:

I, Joseph Miguel de la Peña, a resident of the city of Santa Fé, appear before your excellency in due legal form, and represent that I have registered a piece of land situated in the place called Los Serrillos, which said place or tract, when this province was conquered, belonged to Don Alonzo Rael de Aguilar, who was my wife Maria Rael's grandfather; and having left it so many years unoccupied, and Don Alonzo having lost the right he had to it. Now, sir, I ask your excellency in the name of His Majesty, with all its issues and appurtenances, pastures, and watering-places, uses and customs for me, my children, heirs, or person, or persons to me useful, or of my will, to sow and feed whatever animals God may grant me; and I promise to settle said tract at His Majesty's will, and what he may command in his royal decrees, in view of all which, and all in my favor, I ask and supplicate your excellency with the profoundest respect to attend me and grant to me in the name of His Majesty what I hope to receive through your great righteousness and your never-failing and certain distribution of justice that to this you may deem. To your excellency what may seem most convenient, I implore your excellency's royal aid, and I swear in due form this my writing not to be of malice, and whatever is necessary, &c., &c.

JOSEPH MIGUEL DE LA PEÑA. [Rubric.]

SANTA FÉ, 20*th April of* 1788.

Finding it convenient, the cultivation of this land that is referred to in this writing, I visited the tract, and placed the said applicant in possession thereof, and other heirs of Don Alonso Rael de Aguilar, and that it may be known forever the proper documents were duly made in his favor by the chief alcalde of this city, Don Josef Antonio Ortiz.

CONCHA. [Rubric.]

In this city of Santa Fé, on the 12th day of June of this year 1788, I, the captain of militia and chief alcalde of this city, in virtue of the order and decree that precedes of his excellency, the lieutenant colonel and political governor and military commander of this province, Don Fernando de la Concha visited the place or location that is commonly called Los Serrillos; and notwithstanding that the applicant had been placed in possession by the said his excellency, lieutenant colonel, I took him by the hand, the said José Miguel de la Peña, and led him over the grant; he tore up grass, cast stones, and shouted, saying, "Live the King

our lord, whom may God keep;" taking quiet and peaceful possession of the lands without hinderance, designating the boundaries as follows: On the north, by the boundaries of the Cañada del Guicu and lands of los Bacas; on the south, by the Serros Altos; on the east, by the road that goes to Galisteo, and said grant consists by its measurement from east to west of 2,500 varas, and said grant being divided in three parts, the said Don Miguel de la Peña was entitled to 833 varas on the western side; that is bounded with lands of Don Cleto Miera, and on the east by lands of the heirs of Doña Antonia Terese Rael de Aguilar, and on the other directions the same boundaries that are mentioned in the preceding grant. Having advised him that pastures and watering places are common, and that it may be known for all time, I signed it, acting by appointment with the two witnesses of my assistance, on account of the notorious want of a public secretary, nor a royal one, none being in this province, of all of which I certify.

ANTONIO JOSÉ ORTIZ. [Rubric.]

ANTO. JOSÉ ORTIZ. [Rubric.[
JOSÉ MIGUEL ORTIZ. [Rubric.]

In this city of Santa Fé, on the 18th day of the month of February, of the year 1791, before me, Antonio José Ortiz, captain of militia and chief alcalde of this said city, appeared the above-mentioned Don José Miguel de la Peña, in whose favor the two documents that appear were granted, and he said that he, with the consent of his wife and children, conveyed and did convey to Don Cleto de Miera y Pacheco, the right, title, and homestead that he had acquired of the tract known by the name of Los Serrillos, as appears by the above documents executed to him; which he said he conveyed, with all its rights, to the said Don Cleto Miera on account of having received from him $450 of the country, as customary; which the said Don José Miguel de la Peña said he had received to his entire satistaction and content, of which amount he is satisfied, content, and paid; and if in future it should become of greater value of all he hereby grants and donates pure, entire, perfect, and irrevocable, termed in the law *inter vivos;* and that he may have the power with and use the same at his pleasure; and he, the said Peña, declared that he renounced all and every of the laws, requirements, and circumstances favorable to him, and he requested me that, as chief alcalde, that I append my authority and judicial decree, and I, said chief alcalde, declared that I would, and I do append the same, as far as I am authorized by law; and that it may so appear the said Peña signed with me. To all of which I certify.

ANTONIO JOSÉ ORTIZ. [Rubric.]
JOSEPH MIGUEL DE LA PEÑA. [Rubric.]

This title is recorded in book Letter D, page 6. And that it may so appear, I certify, sign, and seal this with the seal of this office, at Santa Fé this 25th of September, 1852.

JOHN GREINER,
Secretary Territory of New Mexico.

TERRITORY OF NEW MEXICO,
County of Sante Fé:

I, the undersigned, clerk of the probate court in and for the county of Santa Fé, in the Territory of New Mexico, do certify that the foregoing title or written instrument was filed in my office for record the

28th day of June, A. D. 1870, at 11 a. m., and that the same was recorded by me on the same day in book Letter E of record of land documents, &c., pages 382, 383, 384, and 385, which is kept in this office for that purpose.

In testimony whereof I place my name and the seal of said court, at Santa Fé, New Mexico, this the 28th day of June, A. D. 1870.

[SEAL.] TRINIDAD ALARID,
Clerk of the Probate Court and ex-officio Recorder.

I, J. Bonifacio Chaves, do solemnly swear that the foregoing is a true translation of the original in Spanish to the best of my knowledge and belief.

J. BONIFACIO CHAVES,
Translator.

Subscribed and sworn to before me this 8th day of April, A. D. 1871.

[SEAL.] M. A. BREEDEN,
Deputy Clerk.

[Official translation.]

[SEAL.] Six reals; second seal, six reals; years seventeen hundred and eighty-eight and eighty-nine.

His Excellency the Governor and Captain General:

I, José Miguel de la Peña, a resident of the city of Santa Fé, appear before your excellency in due legal form, and represent: Sir, I have registered a piece of land situated in the place called Los Serillos, which said place, or tract, belonged, when this province was recently conquered, to Alonzo Rael de Aguila, my wife Maria Rael's grandfather, and it having been abandoned for so many years, and said Don Alonzo having lost the right he had to it: Now, sir, I ask your excellency for the same, in the name of His Majesty, with all its entrances and exits, pastures and watering places, uses and customs, for me, my children, heirs, or the person or persons to me useful and of my will; to enable to plant, and also to keep what animals God may be pleased to give me, and I promise to settle said tract according to His Majesty's will and to what he commands in his royal ordinances. Wherefore, and in consideration of all else in my favor, I ask and pray your excellency, with the utmost submission, that you be pleased to hear me and grant to me in the name of His Majesty what I hope to obtain through your great righteousness, and your exact and sure distribution of justice, so that through this you may provide as to your excellency may seem most proper. I implore your excellency's royal aid, and declare in due form that this, my petition, is not made in dissimulation, and as may be necessary, &c.

JOSÉ MIGUEL DE LA PEÑA.

SANTA FÉ, 20*th of April*, 1788.

Finding expedient the cultivation of the land referred to in this petition, I visited the tract cited, and placed the petitioner and other heirs of Alonzo Rael de Aguilar in possession thereof, and that it may be known in all time the proper documents will be duly made in his favor, by the chief alcalde of this city, José Antonio Ortiz.

CONCHA.

In this city of Santa Fé, on the 12th day of the month of June, of this year seventeen hundred and eighty-eight, I, the captain of militia and chief alcalde of this city, in virtue of the preceding order and decree of his excellency Fernando de la Concha, lieutenant colonel and civil and military governor of this province, proceeded to the place and location commonly called Los Serrillos; and notwithstanding that the petitioner had been placed in possession by the said lieutenant colonel, I took by the hand the said José Miguel de la Peña and led him over the tract. He plucked up grass, cast stones, and shouted, saying, "Live our lord the King, whom may God preserve," taking quiet and peaceable possession of the said lands without any objection, I designating the boundaries, which are on the north the boundaries of the Cañada del Guycu and lands of the Bacas, on the south the high hills, on the east the road which leads to Galisteo, and said tract embraces by measurement from east to west 2,500 varas; and said tract being divided in three parts, to the said Miguel de la Peña were assigned 833 varas, on the western side adjoining lands of Cleto Miera, and on the east adjoining lands of the heirs of Antonia Teresa Rael de Aguilar, and on the other sides the same boundaries as are stated in the preceding grant, I notifying him that the pastures and watering-places are common. And that it may so appear in all time, I signed this as special justice, with my two attending witnesses, on account of the notorious lack of a public and royal notary, there being none of any kind in this province; to all of which I certify.

ANTONIO JOSÉ ORTIZ.

ANTO. JOSÉ ORTIZ.
JOSÉ MIGUEL ORTIZ.

In this city of Santa Fé, on the 18th day of the month of February of the year seventeen hundred and ninety-one, before me, Antonio José Ortiz, captain of militia and chief alcalde of this said city, appeared the above-mentioned José Miguel de la Peña, in whose favor the two documents that appear were executed, and declared that, with the consent of his children and of his wife, he would convey, and did convey, to Clito de Miera y Pacheco the title, right, and domicile which he had acquired to the tract called the Serrillos, as appears by the above documents executed in his favor, which he declared he conveyed with all the title necessary to the said Clito Miera, the latter having paid him $450 in the currency of the country, which money the said José Miguel de la Peña declared he had received to his satisfaction and content, with which amount he acknowledged himself satisfied, content, and paid; and if in future it should become of greater value, he gives and donates the whole, pure, entire, perfect, and irrevocable, termed in the law *inter-vivos*, and that he may control and use the same at his pleasure; and he, the said Peña, declared that he renounces all and every of the laws, requirements, and circumstances which provide in his favor, and he requested me that, as chief alcalde, I interpose my sanction and judicial decree, and I, said chief alcalde, declared that I would, and I do interpose the same as fully as I am authorized by law; and that it may so appear, the said Peña signed with me; to all of which I certify.

ANTONIO JOSÉ ORTIZ.
JOSÉ MIGUEL DE LA PEÑA.

This title is recorded in book Letter D, page 6; and that it may so

appear, I certify, sign, and seal this with the seal of this office at Santa Fé this 25th of September, 1852.

JOHN GREINER,
Secretary of the Territory of New Mexico.

Filed in my office this 17th day of March, A. D. 1854.

L. D. SHEETZ,
Clerk.

Filed in my office for its record this 28th day of June, A. D. 1870.

TRINIDAD ALARID,
Clerk of Probate Court.

TERRITORY OF NEW MEXICO,
County of Santa Fé:

I, the undersigned, clerk of the probate court in and for the county of Santa Fé, in the Territory of New Mexico, do certify that the foregoing title or written instrument was filed in my office for record the 28th day of June, A. D. 1870, at 11 a. m., and that the same was recorded by me on the same day in book Letter E, of record of land documents, &c., pages 382, 383, 384, and 385, which is kept in this office for that purpose.

In testimony whereof I place my name and the seal of said court at Santa Fé, New Mexico, this the 28th day of June, A. D. 1870.

[SEAL.] TRINIDAD ALARID,
Clerk of the Probate Court and ex-officio Recorder.

SURVEYOR GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, January 8, 1872.

The foregoing is a correct translation of the original in Spanish on file in this office, except the indorsement of clerk L. D. Sheetz, which is a true copy.

DAV. J. MILLER,
Translator.

Testimony.

JOSÉ MIGUEL DE LA PEÑA ET AL.

LOS SERRILLOS TRACT.

DONACIANO VIGIL, being by the surveyor general duly sworn to declare in the case now pending before him of the present claimants, under grant of the Serrillos tract of land, on his oath declares:

Question. (By S. B. ELKINS, attorney for claimants.) What is your name, residence, age, and have you any interest in this case?—Answer. My name is Donaciano Vigil; I reside on the Pecos River, in San Miguel County; my age is sixty-nine years, and I have no interest whatever in the claim.

Q. Did you know Manuel Delgado and Manuel Salustiano Delgado, father and grandfather of the present claimants, the Delgados, of this claim?—A. I knew them both.

Q. How long did you know them?—A. I knew them from my earliest childhood, continuously until their death.

Q. Where did they reside?—A. Manuel S. Delgado resided here at

Santa Fé, and when he died, his son, Manuel Delgado, occupied the ranch of Serrillos until he died, which he did, on his return from the United States, on the road.

Q. Do you know the grant of land, known as the Serrillos tract, here in question? And, if so, state how long you have known the place, whether, and by whom, it has been occupied and how long, if cultivated, who occupies it now, what improvements it has upon it, and what are the boundaries of the tract.—A. I know the tract referred to, and have known it all my life. It has always been occupied continuously, and also been, in like manner, cultivated, and is occupied and cultivated now by the Delgados, the present claimants. The tract has upon it a large residence building, which has been there since I have known the place. The field was, when I last saw it, fenced with palings. The boundaries, according to my recollection, are: on the north, the Cañada de Guicu; on the east, the road leading from the Cienega to Galisteo; on the south, the hills facing the Galisteo Creek; and on the west, the ranch of Juana Lopez, now known as the ranch of Piño. The tract has all the time, since I have known it, been occupied and cultivated by Manuel Salustiano Delegado and his sons and grandsons.

Q. What official positions have you held under the Mexican and American Governments in this Territory, if any?—A. For the twenty-two years preceding the acquisition of New Mexico by the American Government, I was permanently the secretary of the military department in New Mexico, and during that period I was on several occasions secretary of the civil government. From the 22d of September, 1846, until February 28, 1851, I was secretary of state for the Territory of New Mexico, under the United States Government, and since then have once been a member of the house of representatives and twice of the council of the Territory of New Mexico.

Cross-examination, by JOHN GWYN:

Q. By what means do you know the boundaries of this tract?—A. By having seen the grant.

Q. Where did you see the grant?—A. Here at Santa Fé.

Q. In whose hands was it?—A. In the hands of Manuel Delgado, deceased.

Redirect:

Q. Do you know whether this grant has been recorded? And, if so, please state where.—A. I do not know whether it has been recorded or not, but, if it has, I presume it must be recorded in book A or B of records.

DONACIANO VIGIL.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,
Surveyor General.

ANTONIO SENA, being by the surveyor general duly sworn, on his oath declares:

Question. (By S. B. ELKINS.) What is your name, residence, and age, and have you any interest in the claim now here pending?—Answer. My name is Antonio Sena; my age is about sixty years; my residence is here at Santa Fé, and I have no interest whatever in this case.

Q. Do you know the tract of land known as the Serrillos? If so, state where it is situated and what are its boundaries; whether, and to what extent, it has been occupied and cultivated, for how long, and by whom.

—A. I know the Serrillos tract; it is situated in the county of Santa Fé, in New Mexico; its boundaries, according to my knowledge of them, are: on the north, the side of the Serrillos; on the east, a road leading from the Cienega to Galisteo; on the south, the Galisteo Creek side of the hills; and on the west, the Juana Lopez, now known as the Piño ranch. It has been occupied and cultivated since I have known the place, which is from my childhood, first, by Captain Manuel Delgado, deceased, and, when he died, the land passed to his heirs, who have occupied it to the present time.

Q. When you refer to the north boundary of this grant as being the side of the Serrillos, "la caida de los Serrillos," do you mean thereby the Cañada de Guicu?

(Question objected to by Mr. Gwyn, and objection overruled by the surveyor general.)

A. I meant the side of the Serrillos, la caida de los Serrillos, or the Cañada de Guicu, which are the same thing. What I intended to say was the boundary on the north is the descent or slope toward Guicu.

Cross-questioned, by JOHN GWYN:

Q. How do you know these boundaries; is it from the present claimants or otherwise?—A. I know them from having frequently seen the original papers.

Q. In whose hands did you see the papers?—A. I saw them in the hands of the Delgados.

ANTONIO SENA.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,
Surveyor General.

JUAN MIGUEL ORTEGA, being by the surveyor general duly sworn, on his oath declares:

Question. (By S. B. ELKINS.) What is your name, age, residence, and have you any interest in the claim how here pending?—Answer. My name is Juan Miguel Ortega; my age is about sixty-five years; I was born and have always lived here at Santa Fé, and have no interest whatever in this claim.

Q. Do you know the tract of the Serrillos now in question? And, if so, state where it is situated and what are its boundaries; how long and by whom, if at all, has it been occupied and cultivated, and by whom at the present time; to what extent is the land cultivated; and whether the tract has any improvements upon it, and, if so, how long have they been there and what are they.—A. I know the tract referred to, and it is situated in the county of Santa Fé. Its boundaries are, on the north, the Cañada de Guicu; on the east, the road from the Cienega to Galisteo; on the south, the slope toward the Galisteo Creek; and on the west, the Piño ranch. The land has been occupied and cultivated while I have known the place, now about forty years, first by Manuel Delgado, deceased, then by his son, and then by the Delgados, the present claimants, who now occupy the place. A considerable portion of the tract has been cultivated by raising corn, beans, chile, and other products. There are improvements upon the tract, being a common-sized house, which has always been there since I knew the place.

Q. (By Mr. GWYN.) How do you known the boundaries of the tract in question?—A. They were pointed out to me by my father.

Q. Do you know whether there are any other occupants and claim-

ants besides the Delgados of the tract of land in question?—A. I know of none.

JUAN MIGUEL ORTEGA.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,
Surveyor General.

CHARLES P. CLEVER, sworn by the surveyor general, having been called by Mr. Gwyn.

(Mr. Gwyn asked that the boundaries of the grant be read. Objected to by Mr. Elkins, and objection overruled by surveyor general, and boundaries read.)

Question. (By Mr. GWYN.) Do you know the grant claimed in this case by the Delgados?—Answer. I know the ranch known as the Serrillos in the county of Santa Fé.

Q. Have these claimants, the Delgados, ever represented to you the boundaries they claimed as the boundaries of this land?—A. I have never, as I remember, had any conversation with either of the Delgados here present, but have had with the deceased brother, Simon Delgado, but not about the boundaries.

C. P. CLEVER.

Sworn and subscribed before me this September 23, 1871.

T. RUSH SPENCER,
Surveyor General.

SIGMUND SELIGMAN, called by Mr. Gwyn, sworn by the surveyor general.

Question. (By Mr. GWYN.) Have you not heard the boundaries of this grant read just now?—Answer. I have.

Q. Do you know, by conversation with the Delgados, how far south they claimed for this grant?—A. I do from a conversation I had with Simon Delgado in 1863, who then stated the grant extended south to the Galisteo Creek.

Q. Was this Simon Delgado one of the heirs claiming the land?—A. He was.

Q. What led to this conversation with Simon Delgado; were you not in negotiation with him for a portion of the tract of land claimed by him under this grant?—A. I was.

Q. What was the object of the negotiation?—A. We intended to work the mines which were claimed by Delgado to be upon the land, the mines known as the Mina del Toro. We worked the mines with his consent. This was in 1863.

Q. Are you acquainted with that section of country?—A. I am.

Q. Is the mine worked by you in 1863 included within the boundaries read in your hearing a while ago?—A. I do not believe it is.

Q. Has the misrepresentation of Delgado, to wit, that this grant extended as far south as the Galisteo Creek, had or not the effect of working great detriment to your interest?—A. It has greatly.

Q. Do you know the land south of the line alleged in the petition to the surveyor general of the claimants to the Galisteo Creek to be valuable?

(Objected to as irrelevant by Mr. Elkins. Objection overruled by surveyor general, and question put.)

A. I know it to be valuable land.

Q. Have the representations referred to of Simon Delgado prevented

you from acquiring title in any way to said valuable lands that you might have acquired had said representations not been made to you?

(Objected to by Mr. Elkins, as leading and irrelevant. Objection overruled, and question put.)

A. Yes, sir.

S. SELIGMAN.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,
Surveyor General.

STEPHEN B. ELKINS, called by Mr. Gwyn, and sworn by the surveyor general.

Question. (By Mr. R. B. WILLISON.) Are you the attorney for the claimants in this case?—Answer. I am.

Q. Do you know the Serrillos ranch?—A. I know where I have been informed it is, and I have been to that place.

Q. Do you know whether there are occupants upon the land claimed by the Delgados other than those claiming under them?—A. I do not; I am informed Nasario Gonzales and others claim to the east some land, both on and off the Serrillos grant.

Q. Have you not, as attorney for the Delgados, filed a bill in chancery against Gonzales and others relating to this property?—A. I have not; but have prepared such a bill concerning the water and land.

S. B. ELKINS.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,
Surveyor General.

Papers in the contest.

(Objections filed August 4, 1871.)

To the surveyor general of New Mexico:

Your petitioners, John Gwyn and Robert B. Willson, in answer to the petition and claim filed in your office by the heirs of Manuel Delgado, deceased, respectfully represent that they are the owners, by purchase at public sale of land, held at Santa Fé, in August, 1870, by authority of the President of the United States, of the southwest quarter of the southwest quarter of section 9, containing 40 acres; the south half of the southeast quarter and the south half of the southwest quarter of section 8, containing 160 acres; the north half of the northeast quarter of section 17, containing 80 acres; and the south half of the southeast quarter of section 7, containing 80 acres, all embraced in township No. 15 north, range No. 8 east of the principal meridian of the district of the Territory of New Mexico; that said lands were purchased by your petitioners, as above stated, after having been duly advertised and posted throughout said Territory for the three months prior to the sale thereof; that the same was bid off at open outcry of the officers of said land district, and in good faith purchased and paid for by your petitioners; that the patents for the same have long since been issued, and upon their face give a full and perfect guarantee to your petitioners of the said lands, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as an evidence of which facts reference is made to the records of the United States register of the district of New Mexico, and that of the honorable Com-

missioner of the General Land Office at Washington, D. C.; that said lands were advertised and sold in the usual regular order, as will appear by the proclamation of the President of the United States, a copy of which accompanies this petition, marked Exhibit A; that said lands were surveyed and subdivided about the year 1860, in an open and public manner, and the plats and field-notes of the survey of the same were by the surveyor general returned to the register of this district in the usual manner; that no record of pre-emption, or homestead, or title, or claim was made or even indicated in any manner to the register and receiver of this land district up to the date of the sale thereof; but, on the contrary, there existed among the old archive files in your office positive evidence that the former government, upon a petition made to it, positively refused to grant the lands now claimed by the heirs of Manuel Delgado, a portion of which are the lands above described and purchased by and patented to your petitioners, as evidence of which facts see file No. 769 of the original Spanish and Mexican archives in your office, (a copy of which is herewith inclosed, marked Exhibit B;) that the grant of land now claimed by said heirs of Manuel Delgado, deceased, which includes and covers the said lands of your petitioners, was never shown to be in existence, nor was their pretended title-papers in existence, or in any manner exhibited, until, at a very recent period, and subsequent to the issue of said patents to your petitioners; that due notice has been given and publicly proclaimed through the press, hand-bills, pamphlets, &c., to all claimants to land grants in New Mexico held and claimed by them from titles issued by former governments to present the same before the surveyor general of New Mexico for adjudication under the provisions of the act of Congress of July 22, 1854; that said notice and publication has been made both in the English and Spanish languages since the date of said act; that said lands have been publicly surveyed, advertised, and sold, and patented to your petitioners in good faith, during all of which time and transactions no claim or protest is made by any one, until, by the prospective influences of the early completion of railroad facilities near to said lands, it is discovered that your petitioners have fortunately made good and valuable selections in their purchases; that the heirs of Manuel Delgado, deceased, the claimants in this case, have, by their obstinacy, and the defiant and persistent manner in which they have acted in refusing to place their title-papers upon the files in your office, where they properly belonged, and in proving up their title, if any existed, in conformity with said act, violated and disregarded all law, their own interest, and that of the public, and have defeated the justice that might have been meted out to them in presenting and proving up an equitable title to said land, which your petitioners deny them to be possessed of, but which their title-papers in themselves show that these claimants are or were possessed of property in common with others who might select to occupy and use it, and which never was their private property, and never was private property until the date of purchase by your petitioners from the United States Government. In the act of possession given by the justice upon the petition made by Joseph Miguel de la Peña in 1788 it is provided, "that the pastures and watering places are common, (son comunes;) and, that it may always appear, I sign," &c. This word commons (comunes) is interpreted by Mariano Galvan, (page 7, Book 7, Ordenanzas de tierras y aguas,) as follows: "Las comunes son aquellas que no siendo privativamente de ninguno en cuanto á la propiedad pertenecen a todos en cuanto al uso." The commons are those (or that) which do not pertain to any one as

private property, but pertain to every one in its use. Your petitioners deny the right of said heirs of Manuel Delgado, deceased, to an equitable title to the lands claimed by them, but aver that the papers filed by them only show a permission to occupy and use the lands claimed in common with all others who might select to occupy and use the same, and that the land claimed by them was public property up to the date of said public land sale in the month of August, 1870. The eighth section of the act of Congress approved July 22, 1854, provides that until the final action of Congress upon such claims as have been reported upon by the surveyor general of New Mexico all land claims shall be reserved from sale or other disposal by the Government, &c Now the surveyor general in this case has never examined and reported in the matter, nor had he an opportunity to do so, for the reason that he knew not and could not know that any such claim existed. The papers now filed by said heirs are not of a record character. They do not come from the original old archive files, and hence they do not bear any. evidence of genuine title-papers. They were not in existence at the date of the sale of said lands, and were not known or recognized by the Government of the United States, and cannot now be recognized and held to conflict with the perfect guarantee-titles now possessed by your petitioners, and their claim is not protected by said section 8 of said act; that it is a notorious fact that said heirs and claimants have heretofore claimed to own large bodies of lands, for which they have never shown upon record or otherwise exhibited title-papers for, and that by said false representations have worked great injury to the honest and industrious persons who were desirous of settling upon the public lands and improving for themselves and families permanent homesteads, and your petitioners aver that the papers in the case they now present were never filed, for the reason that these same heirs and claimants claimed and held by intimidation and misrepresentations, and used and occupied, a very large tract of land now proven to be public lands, but which were sought after years ago by honest and industrious persons desirous of occupying them; but Congress very wisely protects her just and liberal Government and the purchasers and settlers of her public lands against the defiant and arbitrary acts of persons ever ready to evade her laws, to the great detriment of those honest and innocent purchasers and settlers upon her public domain, as is the case in this instance. Neither Congress nor the Government, nor her officers, can compel parties holding titles under a former government to exhibit and prove them up, but she can so legislate, and does so legislate, so as to protect all good and valid titles to land in the hands of persons subservient and obedient to her laws and who promptly come forward and ask and seek protection under those laws, but she cannot and does not force protection upon defiant and arbitrary persons, who refuse to obey and who evade her protection and laws, and who heap abuses upon and maliciously criticise the action of a generous Government and her honest officials, who have by their long-standing invitation of twenty years or more publicly proclaimed to the heirs and claimants in this case to come forward and place their title papers upon her public records in such manner as to define the lines to their property and insure protection to themselves for all time to come. It is also evidenced in Exhibit B, accompanying this petition, that, as far back as the year 1750, when this same tract of land was petitioned for, Governor Tomas Veliz Cachupin decreed as follows: "And considering that so many governors, my predecessors, have refused to allow that section to be settled or occupied by any citizens, as it was

considered to be commons for the pasturage and keeping thereon of the large horse herd belonging to the royal garrison, and as it was the place nearest to the garrison in the getting up at short notice of any necessary expedition in the royal service for the defense of this country, I, the governor aforesaid, do decree that what these parties pray for cannot be entertained or permitted," &c. Now it was this same cause that produced the clause which was inserted into the act of possession, made by the justice in 1788, granting them the use of the property in common with all others who might wish to avail themselves of its benefits, and it is to this day a notorious fact that the locality now claimed by the heirs aforesaid was the grazing-grounds and camp of the public animals of the recent Mexican government, up to the date of the acquisition of this territory by the United States in the year 1848, and it is believed that it was a knowledge of this fact and the clause in the act of possession above stated that influenced these heirs not to attempt to prove up their claim since the acquisition of this territory, as aforestated; but, failing to prove up a pre-emption or homestead claim prior to the date of sale thereof, in conformity with law, and the property under the proscriptive railroad influence having enhanced in value one hundred-fold since the purchase thereof by your petitioners, these heirs now produce these hidden documents, with a view to snatch from the grasp of honest and innocent purchasers of the public domain property acquired by your petitioners at a public land sale of the United States, and confirmed to them by a guarantee patent, and which has been so enhanced in value by the connections and operations and outlay of capital by them with railroad enterprises. Your petitioners deny the assertion of said heirs that there was no other claimants to the property petitioned for by them, and here aver and assert that said heirs and their several attorneys had examined thoroughly the records, plats, and field-notes of the public surveys and sales of the land in question, and that they well know the fact that your petitioners held good and perfect titles and patents at the date of filing their said petition. Your petitioners further aver that all the land claimed by said heirs has been surveyed and subdivided according to the regular mode of surveying the public lands, and your petitioners pray that said heirs and claimants be required to file with their claim and petition a correct map of the land claimed, by their showing the township and subdivisional lines of said surveys, and the exact points claimed by them as boundary lines, all of which are noted in the field-notes of said public surveys, now on file in your office. If such land-marks and points exist at all, your petitioners deny the allegation of said heirs and claimants, wherein they asserted that some time previous to the year 1788 a grant for the land in question was made to one Alfonso Real de Aguilar, and respectfully call your earnest attention to the facts and evidence contained in Exhibit B, above referred to, wherein it is shown that Governor Tomas Veliz Cachupin, in the year 1750, not only refused to concede this same land as a grant to the heirs of said Alfonso Real de Aguilar, but declared "that many governors, his predecessors, had refused to allow that section to be granted, settled, or occupied by any citizen;" and in his same decree declared "that the transcripts and documents presented to him (by them) a nullity (in view of the nullity of the document) as the act of possession, or the fact of settlement of the place; los Serrillos does not appear therein, nor does the power of Juan Paez Hurtado to furnish a transcript of the grant purporting to be the original grant." Now, the evidence contained in this Exhibit B is from the files of the old public archives,

now in the custody of your office, and among the files of which it has always remained during the reign of former governments, and is not, nor was not, a concealed document in private hands of interested persons, as is that of these heirs and claimants; and if the Spanish government one hundred and twenty years ago found good reasons to scrutinize carefully and reject documents coming from private hands, purporting to be genuine grants, how clearly, sir, does the question present itself before you as to the validity and genuineness of the documents now presented by these heirs and claimants, none of which bear evidence of original archive-files, or records, or recognition by the former governments. No evidence is presented from those original files to support their validity, but only the marks of recent record, since the change of sovereignty from the recent Mexican to the United States Government, are presented in their support, which virtually is no evidence at all in such a case.

Your petitioners claim and hold perfect titles to the lands purchased as aforesaid, guaranteed by patent, the Constitution, laws, usages, and customs of the United States Government; that said lands have now enhanced in value $120 per acre; that their prospective value within two years hence, with railroad facilities at or near them, secured by great outlay, the influence, and connections of your petitioners since the purchase thereof, with railroad enterprises, is $250 per acre; and that a pretended imperfect or inchoate Spanish title cannot be made to affect, in any manner, their just and equitable and legal perfect titles, purchased in good faith and now held and owned by your petitioners.

An equitable Spanish title, not confirmed by the United States, cannot prevail against a legal title acquired from the United States. (United States *vs.* King, 3 Howard, p. 773; 15 Cond. Reps., p. 640.)

If, before the survey of a Spanish grant, an entry is made and a patent taken out for lands which conflicts with a subsequent survey of the confirmed concession, (grant,) the patentee has the better title. (Ledon *vs.* Black, 18 Howard, p. 473.)

All of which is respectfully submitted.

JOHN GWYN.
ROBT. B. WILLISON,
By JNO. GWYN.

SANTA FÉ, NEW MEXICO, *August* 4, 1871.

EXHIBIT A.

By the President of the United States:

PROCLAMATION

For the sale of public lands in the Territories of New Mexico and Colorado.

In pursuance of law, I, Ulysses S. Grant, President of the United States of America, do hereby declare and make known that public sales will be held at the undermentioned land-offices in the Territories of New Mexico and Colorado at the periods hereinafter designated, to wit:

At the land-office at Santa Fé, New Mexico, commencing Monday the 8th day of August next, for the disposal of the public lands in the undermentioned townships and parts of townships, viz:

North of the base-line and east of the principal meridian of New Mexico.

Fractional township 20, of range 3; fractional township 19 and 20, of range 4; fractional township 17, 19, and 20, of range 5; fractional township 17 and 19, of range 6; townships 9, 10, 11, and 12; fractional township 14; and township 15, of range 8; townships 9, 10, 11, and 12; fractional township 13 and 14, and township 15, of range 9; townships 9, 10, 11, and 12, of range 10; townships 9 and 10, of range 11; township 18, of range 20; townships 7 and 8, of range 21; townships 7, 8, and 13, of range 22; townships 13 and 14, of range 23; township 15, of range 24; townships 14 and 15, of range 25; townships 13, 14, and 15, of range 26; townships 13 and 15, of range 27; township 13, of range 29; townships 13 and 14, of range 30; townships 13 and 14, of range 31; townships 13, 14, and 15, of range 32; township 13, of range 33.

* * * * * * *

Lands appropriated by law for the use of schools, Indian, military, and other purposes, will be excluded from the sales.

The offering of the above lands will be commenced on the days appointed, and will proceed in the order in which they are advertised, until the whole shall have been offered, and the sales thus closed; but no sale shall be kept open longer than two weeks, and no private entry of any of the lands will be admitted until after the expiration of the two weeks.

Given under my hand at the city of Washington this 3d day of May, A. D. 1870.

U. S. GRANT.

By order of the President:

JOSEPH S. WILSON,
Commissioner of the General Land-Office.

EXHIBIT B.

Year 1750.

Petition of the heirs of Alfonso Rael de Aguilar, asking that possession be given them of an old land-grant.

His excellency the Governor and Captain General:

We, the heirs of Sergeant Major Alfonso Rael de Aguilar, our names being Eusebio Rael de Aguilar, Juan Rael de Aguilar, Antonio Teresa Rael de Aguilar, Franciso Rael de Aguilar, and the children of the deceased Alfonso Rael de Aguilar, and the children of Feliciana Rael de Aguilar, now deceased, all of us together, the four living brothers and sisters in his name appearing before the feet of your excellency, state that by the death of our deceased father there remained to us a grant of land which he held by grant, which was made to him in the name of His Majesty by the Marquis Diego de Bargas, formerly governor of this province and conqueror thereof, and as our deceased father was one of the conquerors who found themselves in this province at the time of its conquest, as we do with due formality present to your excellency the grant, it being a grant for the place Los Serrillos, with its pastures, waters, timber, and watering-places, as our deceased father had them settled, and a portion of this province having revolted in the year ninety-six, our said father retired from the said Serrillos by order of the gov-

ernor, where he had lived four years, and built houses, which fact is evidenced even to this day by the remaining ruins, and it being true that he left us no other piece of land except the said Serrillos, and during the past years, the place having been used as a pasture-ground for the horse-herds of this royal garrison, to which we all say, the horses are welcome to the pasturage as long as it may be required, without any of us making objection, unless pasturing in the cultivated ground, as there is enough for all, and your excellency will bear well in mind that we are very loyal vassals of His Majesty, and are legitimate children of Alfonso Rael de Aguilar, one of the conquerors of the country, and that Juan Rael de Aguilar, one of the heirs, is now in this city, and he has his family at the city of Chihuahua, because he has not any land in this province, but as soon as your excellency shall deign to concede us the said grant, he is ready to bring his family into this province.

In consideration of all which we ask and pray that your excellency be pleased to grant as we have requested, for it is but justice to do so, and justice is what we seek from your excellency.

And we declare in due form that this our petition is not made in dissimulation, and as may be necessary, &c.,

JUAN RAEL DE AGIULAR.
PH'E. TAFOYA,
Attorney.

SANTA FÉ, *April* 25, 1750.

These parties will present the titles and the grants they refer to.

VELEZ.

His excellency the Governor and Captain General:

I, Ensign Alfonso Rael de Agiular, a soldier and secretary of state and war of this province of New Mexico, by appointment of your excellency, before whom I appear and state: That considering that this said province of New Mexico is now reduced and conquered, it having cost your excellency much watching, much care, and great expense, I enter a tract of land situated from this city of Santa Fé from four to five leagues, and called the Serrillos tract, for which your excellency will please make me in the name of His Majesty a grant, as one of the conquering soldiers that have come with your excellency, which tract of land I ask, with its entrance, and exits, uses and customs, as well as the water, pasturage, and watering-places, as the same were enjoyed by the former settlers of the tract. I ask and pray in due humility that your excellency be pleased to concede and make me, in the name of His Majesty, a grant for said tract of land, as I am a poor married man, with children, and I trust that your excellency will grant me, as I have requested; and I declare in due form of law that this my petition and entry is not made in dissimulation, and as may be necessary, &c.

AIFONSO RAEL DE AGIULAR.

At this fortified town and garrison aforementioned, of the city of Santa Fé, in the province of New Mexico, on the 18th day of the month of September, in the year 1692, before me, Diego de Vargas Lapato Lujan Ponce de Leon, His Majesty's governor and captain general of this said province, and its domain and districts and castellan of the forces and garrisons therein, the foregoing petition was presented by the petitioner, who is a soldier at this garrison, and my secretary of state and war, and in consideration of his services and of the loyalty with which he has served, and the love he has borne His Majesty, I, the

said governor and captain general do, in the name of His Majesty, make him a grant for the land, together with its pasturage, waters, timber, watering-places, uses and customs, and the appurtenances, so that at his will he may, "God, the father, willing," enjoy the same for himself and his heirs, as the will of our Lord, the King, in whose royal name, and in consideration of the merits and services of the party, I do make to him the said grant. In testimony whereof I signed this with two witnesses, the same being the captain and ensign of this garrison, and I returned to the party the said petition, and the granting decree thereon, in the presence of Sergeant Major Fernando de Chavez and Captain Antonio Jorge, residents of this said province, and participants in the said conquest.

DIEGO DE BARGAS LAPATO LUJAN PONCE DE LEON.

ROGUE MADRID,
JUAN DE DIOS LUZERO DE GODOI.

This agrees with its original, to which I refer, and from which I, Juan Pais Urtado, lieutenant governor and captain general, caused the copy to me made word for word at the request of the party, as the original grant has been very badly used, and this is correct and true, compared and corrected, and there were present at the making of the copy and as instrumental witnesses, Sebastian de Apodaca Domingo Balder and Lucas Moia, all residents of this said city, I, acting as special justice, with my attending witnesses, for want of a public or royal notary, of which there is none in this province, and on this paper, as there is none of any stamp in this section, to which I certify.

JUAN PAEZ HURTADO.

Witness: DIEGO DE UGARTE.
Witness: MANUEL THENORIE DE ALBA.

SANTA FÉ, *April* 27, *year* 1750.

Having examined the petition of these parties and the testimony presented by them of the grant, I, Thomas Velez Cachupin, governor and captain general of this province of New Mexico, and castellan of the royal garrison therein, in view of the nullity of the document, as the possession, nor the settlement of the place, Los Serrillos, does not appear therein, nor does the power of Juan Paez Hurtado to furnish a testimonio of the grant purporting to be the original; and considering that so many governors, my predecessors, have refused to allow that section to be settled or occupied by any citizen, it being commons for the pasturage and subsistence of the large horse-herd of this royal garrison, and being the place nearest the garrison in the getting up, at shortest notice, of any necessary expedition in the royal service for the defence of this country, I, the governor aforesaid, should decree that what these parties pray for cannot be entertained or permitted, which decision will be communicated to them by the chief alcalde of this city, who will demand the old, original grant, which, together with this memorial and decree, he will return into my hands. Thus I provided, ordered, and signed, acting with my attending witnesses, to which I certify.

TOMAS VELEZ CACHUPIN.

Witness: JUAN ANTONIO GONZALEZ DEL PERAL.
Witness: THOMAS DE ALVEAR COLLADO.

At the city of Santa Fé, on the 12th of May, in the year 1750, I, José de Bustamante Tagle, chief alcalde and war captain of said city and

its jurisdiction, in execution of the commands contained in the foregoing decree, issued by his excellency the governor and captain general, Tomas Velez Cachupin, castellan for His Majesty, (God save him,) of the royal forces, presented myself before the person of Juan Rael, and communicated to him the foregoing decree, and he being informed of the contents of the same, stated that he had no other document than that presented, and that although his said father, Alfonso Rael de Aguilar, had the original grant and possession, he does not know what became of them; and that this notification may appear, I reduced the same to writing, the said party withdrawing his application.

And I, the said chief alcalde, signed this with two witnesses, with whom I act for want of a public or royal notary, there being none in this province, to which I certify.

JOSEPH DE BUSTAMENTE TAGLE.

Witness: ANTONIO DOMINGUEZ.
Witness: BARTOLOME FERNANDEZ.

Answer.—Filed October 27, 1871.

In the matter of the petition for the confirmation of the Serrillos grant.

HEIRS OF MANUEL DELGADO, CLAIMANTS.

In reply to the argument filed by Messrs. Gwyn and Willison, against the confirmation of the grant, the claimants beg leave to submit the following:

First. The papers filed by the claimants show conclusively that the grant was made in due form of law by the Spanish government, and subsequently respected and recognized by the Mexican government.

Second. The evidence shows that the present claimants, and those under whom they hold, have held and enjoyed the peaceable possession of said grant, and cultivated the same for near a century, and that the claimants are now in possession thereof.

In opposition to this the contestants show a patent to a small portion of the grant—about 160 acres—and claim by reason of the Government of the United States issuing said patent, they have an indefeasible and fee-simple title to the land it embraces, although the same is situate and included within the limits of said grant.

The claimants urge as a principle of law as old as the law itself that a party cannot, under any circumstances, convey any more title than he has—in other words, the Government of the United States cannot, through its officers and agents, sell and dispose of private lands belonging to individuals by grant from another government, and convey a valid title.

The United States did not own the land, and the patent is therefore absolutely void.

In connection herewith the attention of the surveyor general is asked to the eighth and ninth articles of the treaty of Guadalupe Hidalgo.

S. B. ELKINS,
Attorney for Claimants.

Rejoinder.—Filed December 27, 1871.

To General T. Rush Spencer, Surveyor General of New Mexico:

Your petitioners, John Gwyn and Robert B. Willison, in answer to the title claimed by the heirs of Manuel Delgado, deceased, respectfully

represent that these alleged original title papers were filed in your office by their attorney April 8, 1871, and that they were produced from the custody of the claimants; that in their petition filed with the same, June 29, 1871, they state that Manuel Salustiano Delgado, the father of petitioners and the son of Manuel Delgado, occupied, cultivated, &c., while Donaciano Vigil, in giving his testimony, states that he knew both Manuel Delgado and Manuel Salustiano Delgado, father and grandfather of the present claimants, and that Manuel S. Delgado resided here at Santa Fé, and when he died his son, Manuel Delgado, occupied the ranch of Los Serrillos. Evidence in original files in your office show that this same Manuel Delgado died in the beginning of this century, while this witness swears that he inherited from Manuel S. Delgado at no very remote period. It is very evident that this witness was not testifying from memory or personal knowledge of the facts, but from presumption after recent reading over the documents filed in the case, and from conversation with the claimants. He also states that for twenty-two years preceding the acquisition of this Territory by the United States he was the permanent secretary of the Territory department in New Mexico, and that during that period was on several occasions secretary of the civil government, and from September 22, 1846, up to February, 28, 1851, he was secretary of state for the Territory of New Mexico, under control of the United States Government; during all these periods of time he was in charge of the original archives of the former Spanish and Mexican governments, yet he fails to state that these title papers were ever seen among these archives, and the attorney in the case is careful in not questioning him why this title was not filed among those archives, and upon the cross-examination by your petitioners, he declares that he saw these papers here in Santa Fé in the hands of Manuel Delgado, deceased, yet it is proven by documentary evidence in the original Spanish files in your office that this Manuel Delgado died in the early part of the present century. He also states that he does not know if these titles were ever recorded, but if they were, they must have been recorded in Book A or B, of public records, which books were originated and opened for the record of land-titles subsequent to the date of the acquisition of this Territory by the United States, and such a record, even if it existed, could not be taken as evidence of genuine title to land, as they are not the original Spanish or Mexican records. The next witness, Antonio Sena, also testifies that he only saw these alleged title papers in the hands of the claimants, and appears to derive his knowledge of the boundaries in the same manner as the witness Vigil; neither one nor the other testify from personal knowledge of the facts. Vigil testifies that the son was the father of his own father, or, in other words, that Manuel S. Delgado was the father of Manuel Delgado, while original Spanish archives in your office show to the contrary. Really this presumption of witness's personal acquaintance with men who died before he was born, or when the witness was in his earliest years of childhood, far beyond his earliest possible recollection, is a mixture of evidence that cannot tend to support a land-claim before your honor. The witness Sena had no conceivable idea of the boundaries, and, after he has sworn to boundaries entirely without the limits of the tract claimed, the claimants' attorney was permitted to dictate to him the boundaries he should state, and which he attempted to obey, but in so doing he left the matter yet worse confounded, for the slope of the Serillos, as witness terms it, towards the Cañada Guicú, as stated by the claimants and their map, &c., is distant some five or six miles from that cañada, and there are

sundry creeks and deep hollows and cañadas, mountains and hills intervening, which fact literally destroys his evidence, or renders it unintelligible; and this witness's testimony places the northern boundary where the claimants allege in their petition and papers as their southern boundary, and their south boundary at the Galisteo Creek, many miles distant south of claimants' alleged south boundary. The third witness, Juan Miguel Ortega, stated that he knew the boundaries, and that they were pointed out by his father; now, there is no evidence given in the whole course of testimony taken that is positive or of a knowledge of facts, but is presumptive entirely. How many hundreds of settlers are there in New Mexico that now live upon places settled by their ancestors, upon public lands, and which is known to be public land? The public lands in New Mexico were of still less value under the reign of former governments, with a limited number of inhabitants, than at the present day, and the citizens were permitted to occupy and use them at their option the same as is being done by hundreds of persons and now occupying the lands under our own Government. These permits were often given in writing, without passing the title to the land, and if the claimants in this case could, by any means whatever, establish the validity and genuineness of the documents filed, then we deny them to be possessed of a title to the lands claimed, but only a permission to occupy them in common with the nation. The decree of the governor, and the act of possession, as alleged in the papers filed in the case as original documents, appear to have been written by the same hand that affixed the signature of the governor and that of the alcalde, and also one of the attending witnesses, and indeed the papers show conclusively that the alcalde himself acted both in the capacity of alcalde and attending witness to his own act or transaction at the time the papers were extended and executed. The language of the governor that the corresponding deeds *were* drawn by the alcalde-mayor of this town, Don José Antonio Ortir, at the time of extending his act or decree, and the alleged act of possession or deed, appearing, as it does, to have been executed several months thereafter by a different person than the one above named, appropriating to himself the character of alcalde-mayor, shows the falsity of these title papers upon their face. It is not asserted that the present claimants have any knowledge of the manner in which these papers were fabricated, but it is believed that they and their ancestors have been duped in the purchase of them under the impression of genuine titles. The very able attorney representing their interest appears to have discovered the many defects in the titles, and, after many months of delay and investigation and search to produce evidence in their support, he pens his arguments with apparent care not to tax his veracity or permit that of his clients to be attacked, and a carefully prepared statement of assertions are set forth, though entirely destitute of any evidence in their support. The fact that these alleged title papers are written upon two separate half-sheets of paper, one being the half-leaf or sheet of stamped paper, while the other is of common paper unstamped, is also clear evidence of fraud. While the paper itself bears the proper appearance of age, the writing thereon has the appearance of freshness, not comparing in antiquity with the paper itself. Both the sealed and unsealed leaves are apparently the detached right-hand leaves from two separate and distinct whole sheets of paper, and the common paper is not declared valid by the proper officer, or by any officer, as was usual and requisite in such cases. The act of the evident self-constituted governor (for a decree of concession to a grant of land it cannot be termed) seems to have been drawn up with a view to self-protection rather than convey the idea of

a decree of concession. The papers are presented in a disconnected and irregular form, and convey to the mind the appearance of a re-arranged mass of documents to suit the ideas of the holders thereof from time to time; and there is not any indications or marks upon them to distinguish and indicate that they were ever seen by any legally appointed Spanish or Mexican officer before the date of the treaty of Guadalupe Hidalgo; no evidence is produced showing any recognition by the former governments of these titles; while in the adjudication of every private land-claim by the United States, in Florida, Louisiana, California, and New Mexico, and by the State of Texas—in Texas some original archive files, or record of the former government, were produced, or proof of their having existed was produced, to verify the validity of title; but in this case the title papers are produced from the custody of the claimants only, and entirely destitute of evidence that they were ever recognized by the government of Spain or Mexico, but have, apparently, been kept concealed from the knowledge of those governments for a long series of years, and their existence known only to a few confidential friends of the claimants since the acquisition of this Territory by the United States. "Where there is no archive evidence of a grant, and its absence is unaccounted for, the claim must be rejected, even when there is very strong parol proof of a grant."—(Romero *vs.* United States; White *vs.* United States, 1st Wallace, pp. 721, 660.) And reference is made to the following cases, which were rejected for want of evidence of a record-nature to support them: United States *vs.* Canibuston, 20 Howard, p. 59; United States *vs.* Teschmaker, 22 Howard, p. 392; Auentes *vs.* United States, 22 Howard, p. 443; United States *vs.* Osio, 23 Howard, p. 280; United States *vs.* Bolton; Luco *et al. vs.* United States, 23 Howard, pp. 341 and 515; Palmer *et al. vs.* United States; United States *vs.* Castro, 24 Howard, pp. 126 and 346; United States *vs.* Neleigh; United States *vs.* Knight, and United States *vs.* Vallejo, 1 Black, 298, 229, and 541; United States *vs.* Galbraith, 2 Black, 394.

The original diseño, or map, required at the time the grant was made is also a necessary part of every land expediente, and was distinctly required by the former Spanish and Mexican governments; no such paper is filed in this case. No mention is made in the body of these papers that a duplicate copy should be filed in the public archives and recorded, as was the invariable rule and custom of the Spanish government. The old house proven to be upon the land was built by the Spanish government, during the seventeenth century, for the garrison of her troops, as was also the inclosures mentioned for the pasturing and security of the public animals. The language of Concha on the 20th of April, 1788, that the corresponding deeds were drawn by the alcalde mayor of this town, Don José Antonio Ortir, on that date, yet the deed itself shows that such person had nothing to do in the matter at that time, nor at any time subsequent thereto, but do show that another person, appropriating to himself the character of alcalde-mayor, did give his certificate in two signatures, transcribed by two different and distinct handwritings, and dated June 12, 1788, several months thereafter. And if this certificate was made at the time that Concha states, it is fálsely dated, and if falsely dated, it is a fraudulent paper. It is in vain to say that the date of a deed is not material; of such a paper as this it is the most material part, and if these papers were fabricated by Antonio José Ortir, who had no authority to act, we cannot but distrust, in the absence of evidence in their support, that all the papers relating to the title was fabricated in the same way; and if all presumptions were in favor of the fabricator, and tribunals could act on the principle that

suitors must be encouraged in falsifying documents, then the reasoning of claimants' counsel in this case might have a chance of success; but the rule is directly the reverse. Yet the attorney in this case has assumed to give judgment in this cause, to pronounce his clients possessed of a good and valid title; that judgment is manifestly erroneous, being unsupported by evidence, and contrary to the well-settled laws of the land, and the assertion of the attorney that the grant was made in due form of law, and that it is a grant, with the papers and evidence produced in support of the case, needs but to be stated to be condemned.

The deed of conveyance, purporting to be the act of José Miguel de la Peña, conveying to Don Cleto de Mierra y Pachuo, stands precisely in the same condition as these alleged title papers; no evidence of any nature is produced to prove their validity. There are also several other papers filed in the case purporting to be conveyances, and alleging further chain of title, but these papers are the writing of a recent date, not to exceed two years past, but bearing dates early in the present century, and are not in any manner authenticated or verified, and cannot be considered as evidence in the case, and are passed without further notice. A correct and perfect deseño, or map, is a necessary part of every land-claim, and is distinctly required by the regulations, in the adjudication of all cases; and although the entire tract claimed lies in one subdivided township, and the field-notes will show precisely the location of every boundary claimed, if such places are in existence as alleged, these claimants have failed to file such a map, from which it is inferred that the United States must and shall remain subservient to their stubborn wishes, regardless of all law and regulations of the land, but have filed a map designating points and places as boundaries that do not now nor never did exist. These chronological blunders are the besetting dangers of men who make false papers; they often occur in fabricated titles, as is the case in this instance, and where they do occur they always furnish the means of most triumphant exposure. In the case of Lady Ives, a long chain of title papers ingenuously fabricated was totally destroyed by showing that one of the deeds, dated in the reign of William and Mary, ascribed to the King and Queen a style or title which was not adopted until after the date the deed. In the case of José Castro, (1st or 2d Black,) the Supreme Court of the United States pronounced the claim to be fraudulent, mainly upon the ground that in the grant Pio Rico was made to call himself constitutional governor, whereas, at the date of the grant, he was first vocal, and governor *ad interim*, and did not become constitutional governor for several days afterwards. Many years ago a Spanish grant of land in Louisiana was discovered to be a forgery by an officer of the Land Department, who noticed that Bayou Mason was referred to in one of the papers which bore date before the time when that bayou was known by that name, but your honor is certainly bound to presume nothing in favor of a title which presents such anachronisms as is found in this case. But assuming that the acts of the governor and alcalde in this case could be proven and verified as genuine, there would then be no concession or grant recognized or established, for in the petition of José Miguel de Peña to the governor, in 1788, he asks to be placed in possession of a former grant conceded to his ancestors, and the governor, believing and crediting his statements, aims to renew and place him in possession of a title which he has been lead to believe did formerly exist, but which has been proven, by the old archive document filed in this case, never did exist—there was no decree of concession to

a grant by the governor, but simply a renewal of possession. These claimants produce no proof whatever that any grant ever existed previous to 1788, as is alleged by them, but positive evidence in said Exhibit B shows that such grant never did exist, and that the facts contained in said Exhibit B has caused these lands to be surveyed and sold by the United States, in good faith; and hence the act of the governor and the alcalde in this case cannot be taken as a legal transaction, for in extending and giving the possession upon land which they were led to believe was an old grant was an illegal and fraudulent transaction, obtained by fraud and deception, and in bad faith practiced upon them by the petitioner, Peña, and is not a *bona-fide* title, and this claim cannot hold any equities under the treaty of Guadalupe Hidalgo, and must be rejected under the stipulations of the act of July 22, 1854, and the instructions emanating therefrom by the honorable Secretary of the Interior to the surveyor general of New Mexico, under which law and instructions your honor is now adjudicating this claim. In his instructions the honorable Secretary of the Interior says: "The surveyor general of New Mexico has it in charge to prepare a faithful report of all the land titles in New Mexico which had their origin before the United States succeeded to the sovereignty of the country, and the law contemplates such a report as will enable Congress to make a just and proper discrimination between such as are *bona-fide*, (acquired with good faith, without fraud or deception,) and should be confirmed, and such as are *fraudulent*, or *otherwise destitute of merit*, and ought to be rejected." The claim now made by the heirs of Manuel Delgado, deceased, was not recognized under the laws, usages, and customs of the former governments as a *bona-fide* grant, and cannot be recognized under this of the United States. "Mere possession of public land will confer no title, as against a grantee under the United States." (Burgess *vs.* Gray, 16 Howard, p. 48; 21 Cond. Reps., p. 25.) "No standing can be given in courts of justice to inchoate claims under the former government of Louisiana and Florida until recognized by the political authority of the United States." (Paschal's Texas Digest, p. 40; note 150, and cases cited.)

"A paper to be entitled to admission into the General Land-Office must have constituted an archive or record of some former office." (Paschal *vs.* Perez, 7 Texas Rep., p. 356.) It is well known that in the case of most, if not all, the titles to lands executed prior to our own separation from Mexico the original remained an archive, and the testimony was given to the interested party as an evidence of title. (Guilbeau *vs.* Mayo, 15 Texas Rep., p. 414.)

In the very able opinion delivered by Chief Justice Taney in the case of United States *vs.* King *et al.*, (3 Howard, p. 786, 787,) he says: "That in every law establishing American tribunals to examine into the validity of titles to land in Louisiana and Florida derived from the Government of Spain, they are expressly enjoined to inquire whether the documents produced in support of the claim are antedated or fraudulent," and we have no doubt that it is a right of this court to hear and determine whether the certificate of Tradeau, although recognized and sanctioned by the colonial authorities of Spain, is antedated and made out either with or without their privity and consent, in order to defraud the United States and deprive them of lands which rightfully belonged to them under the treaty. The instruments themselves contain no lines or boundaries whereby any definite and specific parcel of land was severed from the public domain; and it has been settled by repeated decisions in this court, and in cases, too, where the instrument

contained clear words of a grant, that if the description was vague and indefinite, as in the case before us, and there was no official survey to give it a location, it could create no right of private property in any particular parcel of land which could be maintained in a court of justice. It was so held in the cases reported in 15 Peters, 184, 215, 275, 319, and in 16 Peters, 159, 160. The land claimed was not severed from the public domain by the Spanish authorities and set apart as private property, and consequently it passed to the United States by the treaty which ceded to them all the public and unappropriated lands, and the instruments in question, even if they could be construed as grants, conveyed no title to the Marquis de Maison Rouge for the land in question; "for if these instruments were regarded as grants, and it appeared that the Marquis de Maison Rouge had originally selected this very district as the place where the grant was to be located, and the immigrants introduced by him had been settled upon it in performance of the conditions of his contract, and if it should be held that he had thereby acquired an equitable right to have the land mentioned in the paper of 1799 laid off to him at this place, still it would be no defense against the United States," for in the case of Choteau *vs.* Eckhart, (2 Howard, 375,) this court decided that an imperfect title derived from Spain before the cession would not be supported against a party claiming under a grant from the United States. (Lessee of Hickey *et al. vs.* Stewart, 3 Howard, p. 750; United States *vs.* Lawton *et al.*, 5 Howard, p. 26, 27. See also 7 Howard, p. 833, United States *vs.* Turner's Heirs, 11 Howard, 663, and United States *vs.* Cox and others, 17 Howard, p. 41.) All these landed estates were finally adjudged to belong to the United States.

In regard to the boundary, as shown on the east, in the case of the heirs of Manuel Delgado, deceased, as per map filed by the claimants, the road designated thereon does not now, nor never did, run as marked, but runs in a due, or nearly due, easterly direction for four or five miles from the north line of the grant, as indicated in said map, at which distance it turns in a southeasterly direction to the town of Galisteo, and these claimants could locate their eastern boundary near or remote, as they might select. The map filed by them is very indefinite and unintelligible, and, although the tract claimed is situated upon the subdivided portions of the public domain, they obstinately refuse to file a map, correct in form or in such manner as to designate the points and places called for, and alleged as their boundaries, which could be defined by the field-notes of said public surveys, if such points and places exist or ever did exist.

Your petitioners further state that they are purchasers of the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the northwest quarter of section 5, containing 40 acres each, or a total of 160 acres, and the west half of the northwest quarter of section 5, containing 80 acres, more or less, and the east half of the northeast quarter of section 6, containing 80 acres, more or less, all in township No. 15 north, range No. 8 east, of the principal meridian of the public surveys in the district of New Mexico, purchased at open outcry at the public-land sales of the United States at Santa Fé, New Mexico, in the month of August, A. D. 1870, and patented, in due and legal form, to your petitioners, which your petitioners ask be considered, in connection with the purchases mentioned in a former petition, directed to you, regarding this same claim, and which is filed with the case. Your petitioners hold perfect and absolute titles to the lands above de-

scribed, guaranteed by patents issued to them, in due and legal form, and fully recognized and protected by the Government of the United States, which holds or held full dominion over said lands at the time of the sale thereof, and that the titles and claim made and presented by the heirs of Delgado never was recognized by the former Spanish and Mexican government and that of the United States; and if said heirs or their ancestors have been duped into the purchase of these fabricated titles, it is their misfortune and not that of the United States, which latter has acquired these lands, under the treaty of Guadalupe Hidalgo, as public domain, held and enjoyed as such by the former governments during their reign over this Territory. (Serrano *vs.* United States, 5 Wallace, p. 451; De Haro *vs.* United States, 5 Wallace, p. 599.)

Respectfully submitted.

JOHN GWYN,
ROBT. B. WILLISON,
By JNO. GWYN.

Surveyor general's decision.

JOSÉ MIGUEL DE LA PEÑA ET AL.

THE SERRILLOS TRACT.

This claim was filed in this office April 8, 1871, by J. Bonifacio Chaves, as attorney for the present claimants of a portion of the land known as the Serrillos tract, situated in the present county of Santa Fé, New Mexico, claimed under a certain grant, or renewal of grant, made by the Spanish government in New Mexico, in 1788, to José Miguel de la Peña and others, as heirs of Alonzo Rael de Aguilar, referred to as a former grantee for the same land, who had abandoned and forfeited the same.

The title papers, being the original muniments in Spanish filed as constituting this grant, consist of—

1. The petition of José Miguel de la Peña to the governor and captain-general of the province of New Mexico, praying for a grant for a certain abandoned tract of land known as the Serrillos, formerly belonging to his wife's grandfather, Alonza Rael de Aguilar.

2. The decree of Governor Concha, dated April 20, 1788, placing the petitioner, de la Peña, and certain other unnamed heirs of de Aguilar, in possession of the land prayed for, and directing the chief alcalde duly to execute the documents of title.

3. The act of possession, dated June 12 following, executed by the chief alcalde, under authority and direction of the governor's decree of April 20, detailing the ceremonies of the act and stating the boundaries of the land as on the north of the Guicu Valley, and the lands of the Bacas; on the south, the high hills; on the east, the Galisteo road, mentioning no boundary on the west, but stating the width of the tract east and west as two thousand five hundred varas.

On the 29th of June, 1871, the claim was formally presented to the surveyor general for adjudication, by S. B. Elkins, as attorney for the heirs of Manuel Delgado, deceased, in a notice to the surveyor general, accompanied with a translation of the title papers and a sketch of the whole tract claimed under the grant, and also with translated copies of certain deeds of conveyance in evidence of the title of said heirs to the portions of said tract claimed by them.

The approval of the grant in this case has been opposed before the surveyor general by John Gwyn and Robert B. Willison, contestants

of the claim, who, in their objections filed in the case, allege that they are the only legitimate owners of certain portion of the tract in question, deriving their title by purchase from the United States, and holding under patent from this Government, and contend that the title so held by them is the superior and only subsisting legal title for the land in dispute, in virtue of sundry reasons by them stated as sufficient to render void the claim set up under the grant in this case.

This office, in taking action upon the claim now pending before it, deems that it may do so under the law only in investigation of the genuineness and validity of the grant filed for that purpose, and not in trial of title between parties; and that in this investigation the grant or claim must be acted upon in its entirety, and not concerning only those portions of land claimed thereunder, title to which may be presented or alleged. In this case the heirs of Delgado claim but a portion of the land embraced in the grant, and are the only such claimants made known to this office. In determining the validity and extent of their claim against the public domain of the United States, the action involves, unavoidably and inseparably, a determination of the title of all other claimants under the same muniment.

This case was set for a hearing for the 23d of September, 1871, on which day the claimants under the grant, by their attorney, and the contestants under the patent, appeared, and sundry witnesses were examined, and was kept open for the presentation of additional testimony and argument till the present month, when the parties submitted the case for decision.

The contestants, Gwyn and Willison, filed, in writing, on the 4th of August, their objections to the approval of the grant to de la Peña, setting forth and alleging therein that they were the owners, by purchase from the Government of the United States, of certain portions of the land covered by said claim, describing said portions as being certain surveyed legal subdivisions of the public lands of the United States sold and patented to them under the proclamation of the President of May 3, 1870, and contesting the validity of said grant substantially on the ground—

1. That no claim under any sort of title was made known by the claimants under the grant, either before or at the sale of said legal subdivisions, as said claimants were, by the law, required to do if any claim they had.

2. That the land in question was never granted, as alleged by them, by the Spanish government, as evidenced by archive file No. 769, in this office; this being a positive refusal, in the year 1750, by the Spanish governor and captain general, to make any grant for this identical tract of land, as the government required and used it for a government grazing-ground.

3. That the pastures and watering-places under the grant to de la Peña, it was therein stipulated, should remain forever in common, and should never become private property; and that, in fact, the title alleged by the claimants under the grant was not a grant at all, but a general permit to occupy and use the land without destroying the character of the latter as public domain.

4. That the act of Congress of July 22, 1854, providing that, until the final action of Congress upon private land-claims reported upon by the surveyor general, no disposition of the land covered thereby should be made, contemplates only such claims as are so reported, and that this private claim not having received such action, the Government had the power to dispose of the land under the eighth section of that act.

5. That the grant to De la Peña was not intended to be more than a concession of the privilege of grazing animals in common; and in proof thereof the contestants file and cite their Document B, and allege that it is notorious the Spanish and Mexican governments used the ground as government grazing land till the year 1848, or as long as they had possession of the country.

6. That the claimants under the grant were aware of an adverse claim to the land in dispute, to wit, that of the contestants, notwithstanding they declare they were not so aware.

7. That they, the contestants, hold a guarantee title by patent from the Government of the United States for the land or a portion of the land in question, which title must prevail against that alleged in this case emanating from the Spanish government.

And, in conclusion, the contestants cite certain decisions of the Supreme Court in support of the points made and urged by them.

The attorney for the grant claimants on the 27th of October filed an answer to the objections of the contestants, urging, in support of the grant to De la Peñas—

(1.) That the concession was made in due form of law by the Spanish government, and was subsequently recognized and respected by the Mexican government.

(2.) That, as shown by the evidence, the grantees and their successors have continuously occupied and cultivated the land, and are in possession actually.

(3.) That the portion of land patented to the contestants by the United States within the limits of the grant did not belong to the United States, and that the patent is therefore absolutely void; the attorney, in connection with his answer, calling attention to the eighth and ninth articles of the treaty of Guadalupe Hidalgo.

The contestants, on the 27th of December, filed a rejoinder, urging substantially, in addition to the seven points previously made—

8. That certain of the testimony taken before the surveyor general in September is inconsistent, incredible, and untenable before the facts.

9. That as there is no archive or record evidence of the grant, the claim must be rejected.

10. That the title-papers in the alleged grant to De la Peña are *prima facie* fraudulent, as evidenced in that the decree of the governor and the act of possession of the alcalde are in handwritings identically the same; that the alcalde giving the possession was not the person authorized and directed by the government to do so as such; that the person officiating acted both as alcalde and as witness to the instrument; that the governor in his said decree refers to the title-deeds as already executed, whereas they show in themselves they were not executed till some time afterwards; that the paper bearing the title documents was not legal-stamped paper, and that the apparent freshness of the writing is incompatible with the ancientness of the paper bearing it.

11. That there does not appear among the title-papers filed any map of the land claimed as granted, which it was necessary to have under the Spanish government, and that they do not show that any retained duplicate of the grant was to be retained and recorded by the government, as was the rule and custom under that government.

12. That the east boundary of the tract claimed under the grant, and shown by the sketch filed with the claim, is indefinite and erroneous, as is also the testimony of witnesses examined by the surveyor general concerning other boundaries of the tract.

In support of their allegation of fraudulency and invalidity in the grant in this case, for the reasons thus stated, the contestants refer to numerous decisions of the Supreme Court of the United States and other authorities cited in their arguments.

As counter claimants under title derived from the United States for land in New Mexico, claimed under title derived from a former government here, it is believed parties could not of right acquire *status* as contestants in the investigation of the foreign title under the act of Congress of July 22, 1854; for in the last clause of the eighth section of that law it is unequivocally declared that, "until the final action of Congress on such (Spanish and Mexican) claims, all lands covered thereby shall be reserved from sale or other disposal by the Government." Messrs. Gwyn and Willison have appeared and contested in this case as claimants under patent from the Government of the United States for the land or a portion of it reserved as above and upon the prior claim for which Congress has not acted finally or at all, except generally for its protection until its validity could be duly investigated and determined. They were allowed to appear and be heard in the absence of opposition acting under title not absolutely barred by the law, the surveyor general being desirous of having all the light available in the premises in the investigation of the claim; and he will here consider in their order the points deemed at all material of those urged as objections by said contestants.

1. It is believed the omission of claimants under the grant to make known their claim to the land about to be sold, could not affect their title if anything had since the law clearly prohibited any disposal of land claimed under grant; and the proclamation of the President reserved from sale all legally appropriated lands, and since there was in fact no law requiring the claimants to make known their claim.

2. The document referred to annulled or declared void a former grant, because of its inchoate condition and because the land it covered was needed for Government use, whereby the soil reverted to the condition of public domain, so to remain until afterwards disposed of by competent authority.

3. The condition that the pastures and watering-places should be in common, did not render the concession any less a grant sufficient to sever the land permanently from the national domain in favor of the grantees.

4. The law referred to is understood to be clear and peremptory in prohibiting any disposal by the United States of land claimed under a Spanish or Mexican grant until the latter is finally acted upon by Congress.

5. The concession of 1788 appears to be an absolute grant, since both the governor and the alcalde placed the parties in possession of the land, recording their action as for all time, making no mention of its grazing but only of its agricultural quality. They make no mention of a Government reservation, nor does it anywhere appear in the papers in the case that the place was ever erected into or declared such; and it is shown by the testimony of three aged witnesses examined in the investigation of this case that the land has been continuously occupied and cultivated by the present claimants and their ancestors since many years back.

6. The point is not deemed a material one.

7. The surveyor general under the law can act only upon those claims for land originating under the Spanish or Mexican government, and none others are actionable before him.

8. The testimony, unless that portion of it concerning the continued possession of the land claimed, is not deemed material in this investigation of the validity of the grant. The consanguinity relations of the claimants Delgado to Manuel Delgado, deceased, the last vendee in the deraignment of title exhibited with their petition, have no importance in this case, wherein in the absence of complete deraignment to the present claimants the claim must be decided with respect only to the original grantees and their legal representatives.

9. If there was in fact a grant to De la Peña, in 1788, as the papers filed appear to show, it is reasonable to conclude there was a record of the fact made in the government office at the time; but the non-production (or as in this case the admitted absence) of any such old record wherewith to prove the fact of this or any other grant purporting to have been made at or about that period, cannot, it is believed, in law or justice, be taken as conclusive that no such grant was made. If there was such a record preserved, it seems to have disappeared, or at any rate was not transferred to the custody and access of the surveyor general with the other old archives belonging to the former governments relating to land matters, and in the absence of such record proof, manifestly essential for documents issued in a former generation, this office has to rely mainly upon such intrinsic evidence of genuineness and validity as the muniments afford in themselves, assisted with the light, corroborative or otherwise, thrown on the case by contemporary papers in the old archives.

10. A cursory critical inspection of the handwriting would convince that they are not identical, whether or not José Antonio Ortir, the person the governor directed to execute the act of possession, and Antonio José Ortir, the person who did execute it, were one and the same individual. The latter is known from contemporary papers in this office to have been at or about the time an officiating alcalde; the signatures of the alcalde and of the witness are manifestly different signatures. The official translation shows that the execution of the papers was subsequent to the date of the decree. The paper is stamped paper, and there is discerned no incompatibility of the kind suggested between the paper and the writing thereon.

11. Under the Spanish land-granting system the object of the map was for the information of the granting authority, as to the locality and extent of the land applied for; in this case that authority, the governor, visited the land himself and personally placed the parties in possession on the ground, and if he had needed the map would no doubt have required it before acting, and this grant being but the validation of a former one previously delivered to and then in the possession of the government, the custom of filing the duplicate may reasonably have been waived in this case, and it was an operation for subsequent performance.

12. The matter of asertainment of boundaries is one pertaining rather to the execution of the survey of the land than to the prior investigation of the validity of the grant, and is the province of the deputy surveyor in the field rather than of the surveyor general.

The present claimants, Delgado, have exhibited in the investigation of this case here certain translated copies of deeds of conveyance of title to Manuel Delgado, deceased, as evidence of their ownership of a portion of the land claimed under the grant, as heirs of said deceased, and in their petition pray that said land be confirmed to them as such heirs. But the conveyances are not authenticated, nor is the deraignment

complete, and there is no proof of heirship, and besides there is among the archives in this office (*vide* file No. 252) evidence that the title to the Serrillos tract of land descended, by due process, from Manuel Delgado, deceased, to his son, Manuel Salustiano Delgado, under and through whom the present claimants Delgado appear, from the evidence, really to hold; wherefore this office will proceed to act upon this claim only with respect to its validity as a grant, and not to the title of any particular parties claiming under the original grantees.

It is a matter of history that it was the will and policy of the Spanish sovereigns that the royal domain should be populated and utilized by grants of land, no less within the vice-royalty of Mexico than in the other ultramarine possessions of the Crown, as it was afterward the declared policy of the Mexican government to encourage agriculture by making to its citizens liberal donations of the same national domain, and as it is of the United States to extend the frontier, by the attractions of a liberal system of homestead donations. In New Mexico the active participants in the conquest of the country were granted by the government a species of bounty-land, but the original concession in this case, made to Alfonso Rael de Aguilar, seems to have been made mainly in consideration of his distinguished loyalty to the king as well as of his services in the conquest.

The concession made in 1692 was afterward, in 1750, declared by the governor and captain general void, and he declined to renew it to the heirs of the grantee, for the reason that the spot, the Serrillos, was required by the government for its use as a pasture-ground. The land was again applied for in 1788 by certain of the heirs of said grantee, when the governor visited the spot, and placed the applicants in permanent possession unconditionally, directing the chief alcalde to execute to them the proper title papers, which was accordingly done.

Neither the power of the captain general to refuse to make or renew the grant in 1750, nor the authority of the governor to do so in 1788, can be questioned or doubted. It does not appear from the action of 1750 in the case that there had been or was then established any government reserve; and the action of the governor in 1788 is believed and held to be sufficient of itself to constitute a good and valid claim to the land referred to, even without regard to the validity or subsistence of the concession of 1692, and notwithstanding the refusal of 1750.

The records in this office show that Fernando de la Concha, whose name appears signed to the concession of 1788, was governor of the province of New Mexico in that year. His signature is known to the office, and is believed to be genuine as it there appears. It is likewise shown that Antonio José Ortir was chief alcalde of the jurisdiction of Santa Fé, and his signature is also so known and believed genuine.

The evidence shows that the present claimants Delgado and their ancestors have been in the peaceable possession and enjoyment of the land at the Serrillos, under the grant, at and since long before the date of the treaty of Guadalupe Hidalgo of 1848. It was, therefore, at that time a recognized and subsisting claim as against the national domain of Mexico acquired by the United States under the treaty.

It is, therefore, considered and held by this office that the concession made in 1788 to José Miguel de la Peña and the other heirs of Alonzo Rael de la Aguilar is a good and valid claim against the public domain of the United States, and the same is hereby approved to them and their legal representatives, and recommend to Congress for confirmation; and a transcript of all the papers in the case, except of the copies of

deeds of conveyance filed by the plaintiffs Delgado, is hereby transmitted, for the action of Congress in the premises.

T. RUSH SPENCER,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, January 31, 1872.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, February 5, 1872.

The foregoing is a correct transcript of the papers on file in this office in private land-claim, reported as No. 59, in the name of José Miguel de la Peña *et al.*

T. RUSH SPENCER,
Surveyor General.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 182.

G. W. WHITMORE vs. W. S. HERNDON.

PAPERS

IN THE CONTESTED-ELECTION CASE OF

G. W. WHITMORE vs. W. S. HERNDON,

IN

THE FIRST CONGRESSIONAL DISTRICT OF TEXAS.

APRIL 10, 1872.—Ordered to be printed.

No. 1.—*Notice of contest.*

(Service admitted this 21st day of December, 1871.)

DECEMBER 1, 1871.

SIR: If you have or should receive the certificate of election to Congress, from the first district of Texas, you are hereby notified that I will contest your right to a seat in Congress from said district, under and by virtue of said certificate, because of the reasons following, to wit: That in the counties of Wood, Angelina, Trinity, Newton, Tyler, Panola, Polk, and Jasper, there existed such a reign of terror toward Union men and republicans, that hundreds and thousands of persons who would have voted for me in the late election, 6th of October, 1871, were prevented from going to the polls; that from intimidation and violence were practiced to such an extent by the democracy who were your supporters, rendered it impossible for a fair expression at the ballot-box by the people of the first congressional district; that the democrats in the above-named counties, and in others that will be hereafter named, were encouraged and advised by you in your several speeches throughout those counties to resist and oppose the proclamation of the governor of Texas, known as the election law, and that they, being so advised and encouraged by you as their candidate, did create and sustain such a reign of terror and violence toward republicans that were prevented from attending the polls and casting a free and untrammeled ballot; that your bitter and inflammatory speeches, wherein you abused and villified each and every republican, from the highest to the lowest official, and were calculated to a great extent to excite and inflame the minds of the democracy, and did have the effect intended, to wit, of deterring and intimidating not only a large mass of the colored voters, but a great number of white republicans from the polls; that in the county of Wood the leading republican was shot down by the rebel democracy (a mob in every respect) which had the effect of preventing nearly all the republi-

cans from voting; that in the county of Angelina a republican was attacked on account of his political principles, which resulted in his being wounded and in the death of two others; that in most of the counties throughout the first congressional district like violence was perpetrated, that had the desired effect of its instigators, to wit, the intimidation of republican voters; that in the county of Cherokee, during the days of the election, a flag entirely dissimilar, inimical to the United States flag, was hoisted by the democracy, and remained so until it was discovered by the adjutant general of the State, when it was ordered down; that not only were republicans maligned and abused for entertaining their principles, but were threatened with actual violence, and in many instances were deprived of employment because they intended voting for me, and that hundreds were driven away from farms that they were working under contract, because they dared maintain their political principles and exercise their right of franchise. That the above causes and acts, besides many others of like character that existed in other counties, to wit, the counties of Rusk, Smith, Houston, and Harrison, prevented and deterred at least six thousand voters from the polls, thereby securing to you a plurality of the votes cast, and preventing the issuance of the certificate to me.

Yours, very respectfully,

G. W. WHITMORE.

Hon. W. S. HERNDON.

WASHINGTON, D. C., *December* 20, 1871.

SIR: You are hereby notified that I intend to contest your right to a seat in the House of Representatives of the Congress of the United States, as a Representative of the first congressional district of the State of Texas, upon the following grounds:

1. Your supporters in said canvass, who had been, with few exceptions, participants in or sympathizers with the late rebellion against the United States, and are still generally hostile to the Government of the United States, and also generally members of democratic clubs and Ku-Klux Klans, so-called, by violence, intimidation, and fraud, and with your knowledge, approval, and co-operation, deterred 6,650 loyal and duly qualified electors from voting for me at the election held on the 3d, 4th, 5th, and 6th days of October, 1871, in the following counties, viz: Anderson, 300; Angelina, 200; Cherokee, 300; Hardin, 750; Harrison, 800; Henderson, 300; Houston, 400; Jasper, 200; Jefferson, 200; Liberty, 200; Nacogdoches, 400; Newton, 100; Orange, 100; Panola, 750; Polk, 250; Rains, 150; Rusk, 350; Sabine, 100; San Augustine, 100; San Jacinto, 150; Shelby, 200; Smith, 400; Trinity, 100; Tyler, 150; Van Zandt, 100, and Wood, 200.

2. At said election 4,350 votes were illegally cast for you in the following counties, viz: Anderson, 100; Angelina, 200; Cherokee, 200; Hardin, 100; Harrison, 200; Henderson, 100; Houston, 300; Jasper, 200; Jefferson, 200; Liberty, 100; Nacogdoches, 300; Newton, 100; Orange, 50; Panola, 400; Polk, 200; Rains, 100; Rusk, 300; Sabine, 100; San Augustine, 100; Shelby, 100; Smith, 200; Trinity, 200; Tyler, 200; Van Zandt, 100; Wood, 200.

3. Your supporters, by general, systematic, and outrageous violence, intimidation, and fraud, perpetrated with your knowledge, approval, and co-operation, in the counties of Anderson, Angelina, Cherokee,

Harrison, Henderson, Houston, Jasper, Jefferson, Liberty, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Van Zandt, and Wood, produced a state of terrorism in said counties, which deterred from voting large numbers of legal voters, white and colored, who would have voted for me at said election if permitted to do so, and emboldened and prompted large numbers of men who were not lawful electors to vote for you, and utterly destroyed the freedom, regularity, and legality of said election in said counties, so that said election was not an expression of the voters of said district, and the returns of said election are, as evidence of the choice of said voters, absolutely void.

G. W. WHITMORE.

Hon. W. S. HERNDON.

2.—*Answer.*

I, this 22d day of December, 1871, received a duplicate copy of the within.

G. W. WHITMORE,
Contestant.

G. W. Whitmore *vs.* W. S. Herndon.—Contested-election case from the first congressional district of the State of Texas, in the House of Representatives of the United States, December 1, 1871.

The following constitutes the demurrer and answer of W. S. Herndon, the sitting member and Representative from the first congressional district of the State of Texas, to the notice of contest served upon him by George W. Whitmore, December 1, 1871:

Demurrer.

Respondent excepts to said notice of contest, and every charge therein, because the same and each of them are vague, indefinite, uncertain, and insufficient in law to require any answer thereto.

Answer.

And for answer, if said exception should be held insufficient, this respondent denies all and singular every charge, matter, and thing in said notice contained, and requires strict proof thereof.

Special Answer.

And for special answer respondent says: That said first charge in said notice, "That in the counties of Wood, Angelina, Trinity, Newton, Tyler, Panola, Polk, and Jasper, hundreds and thousands of persons who would have voted for contestant were prevented from going to the polls because of a reign of terror, violence, and intimidation, produced by the democracy in said counties," is wholly untrue, and every part thereof. The supporters of respondent in said counties, as well as the entire said first district, were not, prior to nor during the days of election in October, 1871, violent or unlawful men, but were, and still are,

the most intelligent, quiet, law-abiding, men of the country. That the supporters of respondent in said district were composed of the good men of all parties, who made common cause, to save the country from financial ruin and a military despotism, as against what is known as the radical party of Texas, which party is composed of the office-holders and colored voters, with very few exceptions, led by the governor, E. J. Davis. That the supporters of respondent in said district, as well as the democrats throughout the State of Texas, were not in a situation to create a reign of terror, and to intimidate republican voters, because the citizens of Texas were deprived, under heavy penalty, of the right to bear or wear arms before the election, while the party in power, the radical party, held all the offices, these in the main appointed, many officers allowed to carry arms, beside a general police force of over 250 men, and a special police force of twenty (20) to each county, all armed, and commanded by radical officials appointed.

This gave a force of near 3,000 armed men, beside the civil officers, who wore arms; all this vast force under the direction of the governor as commander-in-chief; so no opportunity was offered, nor could an effort at intimidation had any hope of success under such circumstances. Respondent avers that his supporters and himself advised the colored voters throughout the district to exercise their own free will and choice at the election; that they were free, and to show it by their vote. And further, that it might be better for them to vote for the radical candidate, as the radicals claimed all the colored voters. That the supporters of respondent were stronger numerically in the district, and if they voted for respondent the radical party would claim that undue influence was used upon them.

2. The second charge, "That the respondent in the canvass through the first district made inflammatory speeches, inciting the public mind of the democracy, and encouraging them to resist the election proclamation of the governor, which speeches had the effect of intimidating and frightening from the polls large numbers of white and colored republican voters," is untrue in manner and form, as charged.

Respondent admits that he did canvass the district prior to the election in October, 1871, and did denounce in severe terms the corruptions of the day, and especially that of the radical State administration of Texas, pointing out their unconstitutional laws enacted for the purpose of perpetuating their power in the State as a party, and that the election proclamation of Governor Davis, issued 9th day of August, 1871, was violative of the provisions of the constitution of the State of Texas, that of the United States, and the enforcement act of 31st May, 1870, which said proclamation, marked "A," is hereto attached, and made a part hereof.

But respondent avers that the said speeches, or any one of them, did not have, or could not have had, the effect of intimidating any voters, white or colored, from expressing their free choice at the election, because, he avers, that all the officers at said election were appointed by contestant's own party. The strong arm of the military was present, and all the stringent restrictions mentioned in said order "A" were carried out with a military pomp and particularity, and that no leniency or favor was shown to the supporters of respondent by said officers.

3. The third charge, that the "leading republican of Wood County was shot down by the rebel democracy, (a mob in every respect,)" is untrue, and a slander upon the people and officers of Wood County, Texas. Respondent is not informed who said leading republican was, or when or by whom he was shot down. But if contestant means J. M. Brock,

then respondent avers that one John Williams, sheriff of Wood County, Texas, about two weeks prior to said election, attempted to arrest said Brock, on two warrants issued from the courts of said county, and was resisted by said Brock, whereupon the said sheriff summoned a posse and pursued Brock to his house, where he, with two freedmen, were forted up with arms, and did then and there fire twice at the sheriff with a gun, and the sheriff shot said Brock down, then arrested and put him in the county jail of Wood County, where he remained in default of bail till the last of October, 1871.

Respondent charges that the arrest and shooting of Brock was lawful, and was not political, and had no effect whatever on the election of Wood County, and no vote was lost to contestant thereby except that of Brock himself, inasmuch as Brock was an abandoned character and exercised no influence over the voting population of Wood County.

4. The fourth charge, that "a republican was attacked in Angelina County on account of his political principles, which resulted in his being wounded and in the death of two others," is untrue in point of fact.

Respondent is not advised in said notice, or any allegation thereof, who those republicans were, when or where they were attacked and killed; but if contestant alludes to the fight that occurred between one Bonner and Denman, and Bonner's son and C. Carter, then this respondent avers that the difficulty occurred more than six weeks before the election, and was a private difficulty between Bonner and Denman, both of whom were wounded, and that the difficulty between Bonner and Carter, which happened at the same time, was *purely accidental, unprovoked*, and was from a misconception of the other difficulty between Bonner and Denman, inasmuch as Bonner and Carter were perfectly good friends; yet Bonner shot Carter by accident, and Carter, not knowing this, shot and killed Bonner. This difficulty had no effect for either political party in the late election, because it had nothing political in it whatever; and this was well known to said contestant.

5. The fifth charge, "that in the county of Cherokee, during the days of the election, a flag entirely dissimilar, inimical to the United States flag, was hoisted by the democracy and remained so until it was discovered by the adjutant general of the State, when it was ordered down," is untrue, and a foul slander upon the people of Cherokee County. If such a thing did exist, which is denied, it is not charged that it had any perceptible effect upon any voter in said county, or that it could have had any injurious influence on the election.

Respondent avers that the election in said county of Cherokee was fair, and that the adjutant general of the State, James Davidson, was present during said election and pronounced it a fair and free election.

6. The sixth charge, that "republicans were abused and threatened, and hundreds driven out of employment, because they dare maintain their principles and vote for contestant," is wholly untrue. This is a vague, indefinite, and uncertain charge, confined to no county, or place, or time, or person; and respondent avers that this charge is a wholesale slander upon the people of the first congressional district, without intending or having the ability to be specific as to time, place, or persons, and as such it is for the purpose and so intended to charge that the white people of said district are oppressive and unjust to the colored voters thereof. Respondent charges the contrary to be true; that employés were not required to vote otherwise than as they pleased, and were not deprived of employment on account of their political principles; and respondent further avers that not more than fifty colored voters within the first congressional district voted for respondent in said

election, and not more than five hundred white voters, if that many, voted for contestant; that, with very few exceptions, contestant's vote was confined to the office-holders under Governor Davis's administration, and the colored voters, who were controlled and directed by the loyal leagues, while respondent's vote was confined to the white vote, composed of the good men of all parties, who combined to defeat the Davis administration perpetuating its power in the county. No such effect was or could have been produced because of the strong military force, mostly composed of colored men, in each county, who were ready to prevent such action.

The seventh charge, "that the above causes and acts, besides many of like character that existed in other counties, to wit, the counties of Rusk, Smith, Houston, and Harrison, prevented and deterred at least six thousand voters from the polls," which prevented the certificate issuing to contestant, is simply a wholesale general charge of what *has been* once charged in retail; and contestant does not pretend that any one of these six thousand voters here mentioned was prevented from, or would have voted for contestant under any circumstances. Respondent avers that no such state of things existed in such counties, or any one of them, on the part of the democracy, as is laid to their charge; but, on the contrary, the democratic party being disarmed and dictated to by a strong military force, and threatened with the loss of their property and liberties, were determined to do their whole duty to the country, and make any sacrifice necessary, and, the more effectually to accomplish this end, they generally determined to keep the law on their side, and to bear all the insults of the military, with their threats and domineering course, for the sake of all that was worth living for in a free country—their liberty, property, and personal security; and this respondent avers that his supporters were civil, peaceable, and obedient to the laws, throughout the district on the days of the election, and that they, his supporters, did not create or engage in a breach of the peace or personal difficulty, throughout said congressional district, on the 3d, 4th, 5th, and 6th days of October, 1871.

But this respondent avers and charges, that the governor of the State of Texas, under the law, called out a large police force for each county, to wit, twenty special policemen, besides the two hundred and fifty-eight policemen used in the State at large, and also all the sheriffs and constables of said district, and by his election order of August 9, 1871, (see Exhibit A,) placed himself in command of said force, and by the said orders and secret instructions to said officers, the governor and radical party, all of said officers, as well as the judges of election and registrar, being appointed by said governor, created and did use unfair and undue influence toward and upon the colored voters of the several counties in said first congressional district; in this, that freedmen were advised, directed, and prohibited, under threats and violence, from voting the democratic vote. In many instances, to wit, in Wood County, Henderson County, Rusk County, Houston County, Harrison County, and Smith County, and other counties, freedmen were seized, hand-cuffed, and beaten with sticks and otherwise abused, for no other reason than that they desired and attempted to vote the democratic ticket during the election; and this treatment was by the police force, mostly of color, towards their own color; and by these unlawful, violent, and fraudulent means a large number of freedmen were prevented from voting for respondent, to wit, two hundred. And respondent charges, that by reason of the large military force used at said election, and the kind of men employed, many of whom were wholly ignorant and illiterate, and aban-

doned in character, and the stringent orders of the governor, general distrust and misgivings were created in the minds of the people, so much so that many feared personal violence from the military; and to avoid this they remained from the polls, to wit, more than five hundred in the several counties in said district remained away on this account.

But respondent charges that said election was as fair as could possibly be held under such laws and such orders and military force, all belonging to one party, to wit, the radical party; and that the returns from every county within the district shows that the election was fair and free, and that no such violence or intimidation as mentioned by contestant existed; and the public journals of the radical party, immediately after the election, throughout the district, declared the election to be fair and free.

Respondent avers that said contestant was preparing for his defeat long before the election, and that he was cognizant of the same, and said contestant did write letters to certain parties at the city of Austin, in the month of September, 1871, saying, in substance, that he was sure of defeat, unless some ten or twelve of the strongest democratic counties in the first congressional district were put under martial law at once, and either prevented from voting at all or counted for him, contestant. And respondent further charges that contestant, a few days after the election, in the county of Smith, and afterwards in the city of Marshall, Texas, stated in conversation that the said congressional election was fair, and that he had been fairly beaten by respondent, and that he had no grounds for contesting said election.

Respondent further says, that if the returns of the county judges can be looked behind and purged, then he charges that the judges of the election, or a part thereof, in the county of Van Zandt, Texas, did fraudulently and unlawfully refuse to put the ballot-box, during the nights of the election, in an iron safe or safe place, as required by law, although one was tendered; but did keep the same in their own charge, and extracted therefrom a large number of votes cast for respondent, to wit, two hundred and seventy-five, and did mark out the name of respondent and insert the name of contestant thereon on a large number of ballots after the same had been cast in the ballot-box, to wit, the number of one hundred and fifty, thereby defrauding respondent out of four hundred and twenty-five votes cast for him in Van Zandt County, Texas, and by so doing reduced the majority of respondent to eighty-six, when it should have been five hundred and eleven votes.

And respondent further avers, that said contestant is wholly ineligible to hold the office of member of Congress, because he is inhibited from so doing by the third clause of the fourteenth amendment to the Constitution of the United States. For this, the said contestant was a legislative officer prior to the late war, to wit, a member of the legislature of the State of Texas, from Harrison County thereof, and then and there took an oath to support the constitution of the State of Texas and the United States, and afterwards engaged in the rebellion. In this, that said contestant was a member of the legislature of the State of Texas after said State seceded, and on, to wit, 18th day of March, 1861, took the oath prescribed to support the constitution of the State of Texas, then seceded, and the Confederate States of America, and continued to act with said State and Confederate States during said session of the legislature, as will appear from the journals thereof, to which reference is here made.

And after the war, to wit, 9th day of September, 1867, said contestant

took the "iron-clad oath" of July 2, 1862, as register in bankruptcy, a certified copy of which, marked C, is hereto attached and made a part hereof, and afterwards took said oath as a member of Congress, on the ——day of ——, 1870. (See journals of House of Representatives.) Both of which oaths were taken in violation of the said fourteenth amendment to the Constitution of the United States; and although contestant had received a majority of all the legal votes cast at said election, yet he will be ineligible as a member, and could not take said oath, which would be required under said amendment.

Respondent avers that he received 4,312 votes as a majority in said election, and but for the fraud in Van Zandt County, and the police force, and stringent military proclamations of the governor, his majority would have been increased to over six thousand (6,000) votes.

In view of the premises, respondent prays that his right to a seat as a member duly elected from the first congressional district of Texas be secured to him, and that contestant be required to pay the costs incurred by reason of the contest, and that he be allowed no compensation therefor by Congress, there being no probable cause for contestant to suppose that he received a majority of the legal votes of said first congressional district of Texas.

W. S. HERNDON,
Respondent.

DECEMBER 21, 1871.

And having received additional notice of contest in the above-entitled cause, by G. W. Whitmore, on the 21st day of December, 1871, this respondent excepts to the same as illegal and wholly insufficient, because the same is served more than thirty days after the issuance of the certificate of election to this respondent, and cannot, therefore, be considered as any notice sufficient to require this respondent to answer thereto, wherefore he prays that the same be stricken out and held for naught.

But should this plea be overruled, then respondent denies every allegation in said notice of December 21, 1871, and says that the same is contradictory, uncertain, and shows that it is not intended to be the foundation of any action against respondent, because of its contradictions of the records of the country; therefore he prays judgment thereof.

W. S. HERNDON,
Respondent.

WASHINGTON, D. C., *December* 26, 1871.

SIR: In the contested-election case of George W. Whitmore *vs.* W. S. Herndon, pending in House of Representatives United States, you are hereby notified that all notices to take testimony in Washington, D. C., must be served upon me in person; and that all notices to take testimony in the State of Texas must be served upon me in person, if in Texas; or if I am not present, then you can serve notice upon the attorneys, or either of them, residing in each county respectively, hereinafter named. But I have no general attorney in Texas upon whom notice for more than one county can be served, except in those counties herein mentioned. The attorneys for each county are as follows, to wit: Smith County, John C. Robertson and Stephen Reeves; Wood County and Raines County, J. J. Jarvis and D. W. Crow; Van Zandt County, Jerome B. Kirby; Henderson County, W. H. Martin; Anderson County, J. H.

Reagan, T. J. Word, and T. T. Gammage; Cherokee County, Thomas R. Bonner and Judge Guinn; Rusk County, James H. Jones and W. W. Morris; Harrison County, William Stedman, J. W. Pope, and M. D. Ector; Panola County, A. W. DeBerry and Drury Fields; Shelby County, D. M. Short and O. M. Roberts; San Augustine and Sabine Counties, S. W. Blount, S. B. Bewly, and F. B. Sexton; Nacogdoches County, R. S. Walker, Amory Starr, and Bennett Blake; Angelina County, H. G. Lane; Houston County, D. A. Nunn and W. Stewart; Trinity County, Messrs. Robb and Stevenson; Tyler County, Thomas R. Rock and W. P. Nicks; Polk and San Jacinto Counties, J. M. Crosson; Liberty and Chambers County, A. T. Watts, Hon. E. B. Pickett, and F. F. Foscue; Hardin County, J. W. Leonard; Jasper County, R. C. Doom and W. A. Ferguson; Newton County, J. T. Stark; Jefferson County, James Armstrong, G. W. O'Brien, and R. H. Leonard, and in Orange County, D. A. Tripplett and Henry Davis. All of the above-named attorneys reside in the county seats of the aforesaid counties respectively, and will accept service of notice for me, and serve notices upon you or your attorneys and take testimony, having full and ample powers from me to act in each of said counties mentioned, but not to act generally.

Respectfully,

W. S. HERNDON.

I have this day received a duplicate copy of the notice of the within and will observe the notice thereof.

G. W. WHITMORE.

DECEMBER 26, 1871.

Hon. GEO. W. WHITMORE, *Washington, D. C.*

FORTY-SECOND CONGRESS, SECOND SESSION.

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES.

December 18, 1871.

On motion of Mr. McCrary, from the Committee on Elections,

Resolved, That the sixty days which the law allows for taking testimony in the contested-election case of G. W. Whitmore against W. S. Herndon, from the first district of Texas, shall commence on the 1st day of January, 1872.

Resolved, That either party to said contest be authorized to take the testimony of any witnesses who may be found in the District of Columbia, at the city of Washington, before any officer authorized by law to take depositions therein, within sixty days after the passage of this resolution, upon three days' notice to the opposite party. No mileage to be allowed to such witnesses.

Attest:

EWD. McPHERSON, *Clerk.*

HOUSE OF REPRESENTATIVES.

Honorable W. S. Herndon. Certificate of the election of Hon. W. S. Herndon as a member of the Forty-second Congress from the first district in Texas. December 4, 1871, *referred to the Committee on Elections and ordered to be printed.*

GOVERNOR'S OFFICE,
Austin, November 15, 1871.

This is to certify that on a comparison of the returns of votes cast at an election held in the first congressional district of the State of Texas, on the 3d, 4th, 5th, and 6th of October, A. D. 1871, provided for by joint resolution of the legislature of said State of Texas, approved May 2, 1871, I find that the Hon. W. S. Herndon was duly elected to represent the said congressional district of the State of Texas in the Congress of the United States, for the term commencing on the 4th day of March, A. D. 1871, and ending on March 4, 1873.

In giving this certificate I wish to call attention to the attached certified statement of the vote, including the returns rejected as well as those counted. Complaints have been made of fraud and violence affecting the freedom of the election in many of the counties, the returns of which have been counted, and at least one instance of violence, during the canvass, on the part of the candidate who receives this certificate, toward his opponent is reported. In my opinion, this was not a fair election in that district, and should be set aside; but I consider that I have no option under the act of Congress of May 31, 1870, section 22, but must give the certificate to the candidate having the largest number of votes returned here according to the form of law.

In testimony whereof I have caused the great seal of the State to be affixed, at the city of Austin, the date herein first above written.

[SEAL]

EDM'D J. DAVIS,
Governor.

By the governor:

J. E. OLDRIGHT,
Acting Secretary of State.

Statement showing the number of votes cast in the first district for candidates for Congress, at an election held therein on the 3d, 4th, 5th, and 6th days of October, 1871.

Counties.	G. W. Whitmore.	W. S. Herndon.	Scattering.	Remarks.
Anderson	918	1,685	.....	
Angelina	73	350	.....	
Chambers	51	151	.....	
Cherokee	636	1,463	.....	
Hardin	.....	66	.....	Rejected because David Choate, a member of the board of appeals, was expelled by the registrar and one of the board of appeals, a colored man, having no voice in the matter. A man by the name of Leonard was placed on the board of appeals in lieu of Choate, and in consequence of this fact, and the terrorism in Hardin County, no votes were polled for the republican candidate.
Harrison	2,216	1,116	1	
Henderson	270	737	.....	
Houston	912	877	.....	
Jasper	144	321	.....	
Jefferson	101	200	.....	
Liberty	303	390	.....	
Nacogdoches	429	1,063	.....	
Newton	97	195	.....	
Orange	25	126	.....	
Panola	284	932	.....	
Polk	120	350	.....	
Rains	10	210	.....	
Rusk	1,363	1,651	.....	Rejected on account of fraud and intimidation practiced upon colored and white voters. The election order was entirely disregarded, and numbers of men hung around the polls scrutinizing votes, hooting at and insulting those who chose to vote the republican ticket.
Sabine	229	271	.....	
San Augustine	396	433	.....	
San Jacinto	392	226	.....	
Shelby	358	641	.....	
Smith	1,470	1,649	.....	
Trinity	109	363	.....	
Tyler	105	315	.....	
Van Zant	375	461	.....	
Wood	186	596	.....	
Total	10,209	14,521	1	

DEPARTMENT OF STATE,
Austin, Texas.

I, J. E. Oldright, acting secretary of state for the State of Texas, hereby certify that the foregoing is a true copy, taken from the records on file in this office.

Witness my hand and official seal at office, in the city of Austin, the date hereinbefore first written.

J. E. OLDRIGHT,
Acting Secretary of State.

3.—*Deposition of W. V. Tunstall.*

Question 1. Where do you reside?

Question 2. Do you engage actively in political affairs?

Question 3. How were you employed during the late canvass in Texas for members of Congress?

Question 4. In what counties did you more particularly spend your time?

Question 5. Whom did you support, and what was the spirit of the opposition?

Question 6. Name speeches, incidents, and acts which you regard as evidences of a hostility to the Government.

Question 7. Have you experienced personal and private and pecuniary injuries at the hands of those you still regard as foes to the Government?

Question 8. Have you known any others who have been the objects of similar treatment? If so, name them.

Question 9. What was the effect of such conduct upon loyal men generally?

Question 10. What is the character of the democratic press of the first congressional district?

Question 11. Do you know of any Ku-Klux dens?

Question 12. Where were you during the rebellion, and how engaged?

Question 13. Of what offenses have republicans been guilty that calls forth such wrath from the democracy?

Question 14. What was the Hon. G. W. Whitmore's status during the rebellion, and what W. S. Herndon's? What is the attitude of each now toward the dead confederacy, and what toward the United States?

Question 15. What was the character of Whitmore's and his supporters' speeches, and what of Herndon's and his supporters' during the late political campaign?

Question 16. What were the respective flags under which each rallied during the said campaign?

Question 17. What was the expressed feelings of each toward the Constitution of the United States and the laws of Congress?

Question 18. What was the avowed feelings of each toward the peace officers of the State?

Question 19. Have you or not a general knowledge of the mode and manner in which Herndon and his supporters conducted the late political campaign?

Question 20. Did not said mode and manner produce a moral intimidation which kept a large body of voters from the polls?

THE STATE OF TEXAS, *Houston County:*

Be it remembered that on the 22d day of January, A. D. 1872, George W. Whitmore is a contestant for a seat in the House of Representatives of the Congress of the United States against the sitting member, W. S. Herndon, from the first congressional district of the State of Texas. I have caused William V. Tunstall to come before me as a witness for contestant, when the following questions were propounded and answered by him.

H. W. MOORE,
Attorney for Whitmore.

To wit:

Deposition of William V. Tunstall, in answer to direct and cross interrogatories propounded to him touching a contested seat in the House of Representatives of the Congress of the United States, wherein the Hon. George W. Whitmore is contestant and William S. Herndon is contestee, to wit:

Answer to interrogatory 1. I reside at Creswell, in Houston County, Texas.

Answer to interrogatory 2. I have been a faithful friend to my coun-

try during all the bitter years of rebellion, reconstruction, and Ku-Kluxism.

Answer to interrogatory 3. In response to a resolution of the republican convention of the first congressional district, I canvassed in behalf of the nominee of said convention, speaking and organizing Union Leagues.

Answer to interrogatory 4. I spent my time in Houston, Anderson, Cherokee, Nacogdoches, and Angelina Counties.

Answer to interrogatory 5. I gave my support to Hon. George W. Whitmore. The spirit of the opposition was malignant, proscriptive, devilish. Misrepresentation, deception, terrorism, and denunciation were used instead of argument. Hate to the national and State governments characterized contestee and supporters.

Answer to interrogatory 6. The speech of W. S. Herndon at Jacksonville, in Cherokee County, during the canvass, in which he stated that he did all he could for the confederacy, and only regretted that he was not twenty feet higher and ten feet wider, and had not a forty-horse engine attached to him, that he might have done more, and that it would have been a blessing if the Ku-Klux had been organized sooner, and had put an end to the radical thieves now ruining the country, as well as I can collate at this late day. This is a sample of his speeches throughout the district. Also the speech of Judge S. A. Wilson, of Rush, in which he advised the democrats to come to the polls with arms and scalping-knives, and if necessary cut their way to the polls. This is a sample of the speeches of his supporters.

As to incidents, I will name Herndon's assault upon Whitmore at Liberty and Henderson, and the huzzas of the democracy in each case, as matters of public notoriety, and being heralded abroad, had an intimidating effect upon the peaceable, law-abiding, and loyal men of the district; the assaulting and chasing loyal voters during registration in Cherokee County, and the non-action of the democratic justice of the peace in turning the offenders loose, without even a nominal fine; the organization of democratic clubs all over the district, and appointing committees (vigilance) to visit every voter, and denouncing all voters who would not join those clubs as radicals, and cutting them off from social life and business relations; threatening to knock colored men down for claiming to be radicals; denouncing the late amendments to the Constitution of the United States, the civil rights and Ku-Klux bills, and all officers, State and national, as usurpers, and trying to destroy public confidence in the republic; holding up to public execration all loyal people and friends of the Government, comparing them to asses, who ought to be taxed as property, and using vulgar and obscene language to republican orators while speaking to audiences of men and women, (instance case of Grisham to General Monroe, in Cherokee County; the language is too filthy to put upon paper;) refusing universally to listen to loyal men deliver speeches in defense of country, and being complimented by the democratic press for the same, (instance General Monroe at Mustang Prairie, and the county paper;) giving the first honors to the most brutal votaries of the "lost cause," and who still proclaim the greatest and strongest allegiance to its ghost. The whole country has been flooded with falsehood and inundated with slander, and were it not for the Ku-Klux bill of Congress and the peace measures in force in this State, murder and lynch-law would run riot as in days of yore.

Answer to interrogatory 7. In the first place not less than one hundred base and malicious lies and slanders have been perpetrated

HOUSE OF REPRESENTATIVES.

Honorable W. S. Herndon. Certificate of the election of Hon. W. S. Herndon as a member of the Forty-second Congress from the first district in Texas. December 4, 1871, *referred to the Committee on Elections and ordered to be printed.*

GOVERNOR'S OFFICE,
Austin, November 15, 1871.

This is to certify that on a comparison of the returns of votes cast at an election held in the first congressional district of the State of Texas, on the 3d, 4th, 5th, and 6th of October, A. D. 1871, provided for by joint resolution of the legislature of said State of Texas, approved May 2, 1871, I find that the Hon. W. S. Herndon was duly elected to represent the said congressional district of the State of Texas in the Congress of the United States, for the term commencing on the 4th day of March, A. D. 1871, and ending on March 4, 1873.

In giving this certificate I wish to call attention to the attached certified statement of the vote, including the returns rejected as well as those counted. Complaints have been made of fraud and violence affecting the freedom of the election in many of the counties, the returns of which have been counted, and at least one instance of violence, during the canvass, on the part of the candidate who receives this certificate, toward his opponent is reported. In my opinion, this was not a fair election in that district, and should be set aside; but I consider that I have no option under the act of Congress of May 31, 1870, section 22, but must give the certificate to the candidate having the largest number of votes returned here according to the form of law.

In testimony whereof I have caused the great seal of the State to be affixed, at the city of Austin, the date herein first above written.

[SEAL] EDM'D J. DAVIS,
Governor.

By the governor:

J. E. OLDRIGHT,
Acting Secretary of State.

Statement showing the number of votes cast in the first district for candidates for Congress, at an election held therein on the 3d, 4th, 5th, and 6th days of October, 1871.

Counties.	G. W. Whitmore.	W. S. Herndon.	Scattering.	Remarks.
Anderson	918	1,685	.....	
Angelina	73	350	.....	
Chambers	51	151	.....	
Cherokee	636	1,463	.....	
Hardin	.....	66	.....	Rejected because David Choate, a member of the board of appeals, was expelled by the registrar and one of the board of appeals, a colored man, having no voice in the matter. A man by the name of Leonard was placed on the board of appeals in lieu of Choate, and in consequence of this fact, and the terrorism in Hardin County, no votes were polled for the republican candidate.
Harrison	2,216	1,116	1	
Henderson	270	737	.....	
Houston	912	877	.....	
Jasper	144	321	.....	
Jefferson	101	200	.....	
Liberty	303	390	.....	
Nacogdoches	429	1,063	.....	
Newton	97	195	.....	
Orange	25	126	.....	
Panola	284	932	.....	
Polk	120	350	.....	
Rains	10	210	.....	
Rusk	1,363	1,651	.....	Rejected on account of fraud and intimidation practiced upon colored and white voters. The election order was entirely disregarded, and numbers of men hung around the polls scrutinizing votes, hooting at and insulting those who chose to vote the republican ticket.
Sabine	229	271	.....	
San Augustine	396	433	.....	
San Jacinto	392	226	.....	
Shelby	358	641	.....	
Smith	1,470	1,649	.....	
Trinity	109	363	.....	
Tyler	105	315	.....	
Van Zant	375	461	.....	
Wood	186	596	.....	
Total	10,209	14,521	1	

DEPARTMENT OF STATE,
Austin, Texas.

I, J. E. Oldright, acting secretary of state for the State of Texas, hereby certify that the foregoing is a true copy, taken from the records on file in this office.

Witness my hand and official seal at office, in the city of Austin, the date hereinbefore first written.

J. E. OLDRIGHT,
Acting Secretary of State.

3.—*Deposition of W. V. Tunstall.*

Question 1. Where do you reside?

Question 2. Do you engage actively in political affairs?

Question 3. How were you employed during the late canvass in Texas for members of Congress?

Question 4. In what counties did you more particularly spend your time?

Question 5. Whom did you support, and what was the spirit of the opposition?

Question 6. Name speeches, incidents, and acts which you regard as evidences of a hostility to the Government.

Question 7. Have you experienced personal and private and pecuniary injuries at the hands of those you still regard as foes to the Government?

Question 8. Have you known any others who have been the objects of similar treatment? If so, name them.

Question 9. What was the effect of such conduct upon loyal men generally?

Question 10. What is the character of the democratic press of the first congressional district?

Question 11. Do you know of any Ku-Klux dens?

Question 12. Where were you during the rebellion, and how engaged?

Question 13. Of what offenses have republicans been guilty that calls forth such wrath from the democracy?

Question 14. What was the Hon. G. W. Whitmore's status during the rebellion, and what W. S. Herndon's? What is the attitude of each now toward the dead confederacy, and what toward the United States?

Question 15. What was the character of Whitmore's and his supporters' speeches, and what of Herndon's and his supporters' during the late political campaign?

Question 16. What were the respective flags under which each rallied during the said campaign?

Question 17. What was the expressed feelings of each toward the Constitution of the United States and the laws of Congress?

Question 18. What was the avowed feelings of each toward the peace officers of the State?

Question 19. Have you or not a general knowledge of the mode and manner in which Herndon and his supporters conducted the late political campaign?

Question 20. Did not said mode and manner produce a moral intimidation which kept a large body of voters from the polls?

THE STATE OF TEXAS, *Houston County:*

Be it remembered that on the 22d day of January, A. D. 1872, George W. Whitmore is a contestant for a seat in the House of Representatives of the Congress of the United States against the sitting member, W. S. Herndon, from the first congressional district of the State of Texas. I have caused William V. Tunstall to come before me as a witness for contestant, when the following questions were propounded and answered by him.

H. W. MOORE,
Attorney for Whitmore.

To wit:

Deposition of William V. Tunstall, in answer to direct and cross interrogatories propounded to him touching a contested seat in the House of Representatives of the Congress of the United States, wherein the Hon. George W. Whitmore is contestant and William S. Herndon is contestee, to wit:

Answer to interrogatory 1. I reside at Creswell, in Houston County, Texas.

Answer to interrogatory 2. I have been a faithful friend to my coun-

try during all the bitter years of rebellion, reconstruction, and Ku-Kluxism.

Answer to interrogatory 3. In response to a resolution of the republican convention of the first congressional district, I canvassed in behalf of the nominee of said convention, speaking and organizing Union Leagues.

Answer to interrogatory 4. I spent my time in Houston, Anderson, Cherokee, Nacogdoches, and Angelina Counties.

Answer to interrogatory 5. I gave my support to Hon. George W. Whitmore. The spirit of the opposition was malignant, proscriptive, devilish. Misrepresentation, deception, terrorism, and denunciation were used instead of argument. Hate to the national and State governments characterized contestee and supporters.

Answer to interrogatory 6. The speech of W. S. Herndon at Jacksonville, in Cherokee County, during the canvass, in which he stated that he did all he could for the confederacy, and only regretted that he was not twenty feet higher and ten feet wider, and had not a forty-horse engine attached to him, that he might have done more, and that it would have been a blessing if the Ku-Klux had been organized sooner, and had put an end to the radical thieves now ruining the country, as well as I can collate at this late day. This is a sample of his speeches throughout the district. Also the speech of Judge S. A. Wilson, of Rush, in which he advised the democrats to come to the polls with arms and scalping-knives, and if necessary cut their way to the polls. This is a sample of the speeches of his supporters.

As to incidents, I will name Herndon's assault upon Whitmore at Liberty and Henderson, and the huzzas of the democracy in each case, as matters of public notoriety, and being heralded abroad, had an intimidating effect upon the peaceable, law-abiding, and loyal men of the district; the assaulting and chasing loyal voters during registration in Cherokee County, and the non-action of the democratic justice of the peace in turning the offenders loose, without even a nominal fine; the organization of democratic clubs all over the district, and appointing committees (vigilance) to visit every voter, and denouncing all voters who would not join those clubs as radicals, and cutting them off from social life and business relations; threatening to knock colored men down for claiming to be radicals; denouncing the late amendments to the Constitution of the United States, the civil rights and Ku-Klux bills, and all officers, State and national, as usurpers, and trying to destroy public confidence in the republic; holding up to public execration all loyal people and friends of the Government, comparing them to asses, who ought to be taxed as property, and using vulgar and obscene language to republican orators while speaking to audiences of men and women, (instance case of Grisham to General Monroe, in Cherokee County; the language is too filthy to put upon paper;) refusing universally to listen to loyal men deliver speeches in defense of country, and being complimented by the democratic press for the same, (instance General Monroe at Mustang Prairie, and the county paper;) giving the first honors to the most brutal votaries of the "lost cause," and who still proclaim the greatest and strongest allegiance to its ghost. The whole country has been flooded with falsehood and inundated with slander, and were it not for the Ku-Klux bill of Congress and the peace measures in force in this State, murder and lynch-law would run riot as in days of yore.

Answer to interrogatory 7. In the first place not less than one hundred base and malicious lies and slanders have been perpetrated

upon me. Once I was ordered to leave Crockett within five minutes, upon the pretext that the town was quarantined, while three confederate chieftains from the same town were permitted to remain without a word. I had a valuable horse poisoned, and another abused in my own pasture, resulting in his death. My fences have been torn down, my stock mutilated, my tenants tampered with, and my well poisoned, resulting in the prostration of my whole family, and the death of two of my children, as I have every reason to believe. I have been notified by thirty persons, through the county paper, to leave my home, when the authorities gave me five policemen to protect me and mine, stationing them at my house.

The democracy had one barbecue about three miles west of my house, one about five miles east of my house, and one in front of my house, at which fifty anvil guns were discharged, and myself and family abused in democratic orations on the occasions, and all for the purpose of totally ostracising my family, and terrorizing four men whom I had influenced to join the republican party. My horses' tails have been cut off. The result has been that I cannot commune with my neighbors, lend and borrow, and for all purposes of association and business I had as well be at the North Pole. My little children are insulted by the passers-by; my little son has been mobbed at mill, and democrats are wont to pass my residence, yelling like Indians on the war-path. To perpetuate Herndon's tenure of office will be to legalize such villainies.

Answer to interrogatory 8. All republicans are belied and slandered, cut off from social life, insulted in society, and frequently hissed in the streets and highways. "Their name is legion."

Dr. March, of Mount Enterprise, Rush County, one evening about twilight had about a hundred bullet-holes shot into the front and roof of his store. His wife and daughter were shot at at the same time, the mob meanwhile screaming, "Kill the damned old radical," &c., &c. A short time before that a Mr. Haynes stepped up to a horse of the doctor's, and informed him that the people had agreed to divide his property, (some fifty thousand dollars' worth,) and, suiting his actions to his words, seized the horse, and March shot him. When the trial came off for shooting at house and women, all proved *alibi* or innocence, thus making courts of justice a mere farce. A police force was stationed at his house. General A. T. Monroe's horse's tail and mane were cut off during the late campaign in Sumter, the county-site of Trinity County.

Robert N. Saunders has been twice convicted of murder in the first degree for the same offense, and a new trial granted upon the ground that the verdict of the jury was contrary to law and evidence. Had he been a democrat, no bill would ever have been found in Cherokee County. It is seldom if ever a bill is found against a democrat for any crime committed against a white radical, while grand juries are importuned to find bills against all white radicals for political effect. Saunders was the first man who ever organized a Union League in Cherokee County, and the democrats have ground him and his folks to powder, though attacked by a drunken mob of Irishmen. Freedmen are dragged into law, their cotton received at gins, and no receipt given in return; shipped and sold without their knowledge or consent. They are shot and stabbed for any imaginary insult. One in Rush County was taken by democrats in the deep hours of night, and his clothes saturated with turpentine, set on fire about the stomach and privates, and inhumanly burned, and is probably dead ere this. Attempts are made to separate husbands who are republicans and their wives, and a determined effort is made to demoralize and throw society into anarchy

and to wreck the whole fabric of the natural relations of life. Major W. M. Waddell once had a gun drawn upon him and cursed for a damned radical in his own store-house in Crockett, strictly upon democratic principles, (so called.)

Similar proceedings are and have been going on throughout this district for ten years, and are intensified during political campaigns, and particularly the late one for Congress, and wrought up by contestee and his supporters.

Answer to interrogatory 9. To deter thousands from coming to the polls, and hundreds who did come, from voting as they desired.

Answer to interrogatory 10. Rule or ruin, demoralization, deception, ostracism, terrorism, intimidation, slander, bitter hate, abuse, personal, turning the truth into a lie, manufacturing lies out of whole cloth, telling lies and sticking to them, infamous, hellish. The democratic press is run by the bulldogs, bomb-proofs, home-guards, and ten-strikers of the defunct confederacy. The democratic press is the cause of all our woes.

Answer to interrogatory 11.—There was one at Shiloh camp-ground. It was probably run as a democratic club during the last campaign, and applying the scripture rule, "By their fruits ye shall know them," there was one in every community within my knowledge. The acts of the democracy show that they are inspired by something similar to the published oath of the Ku-Klux Klan.

Answer to interrogatory 12.—I was, perhaps, the first refugee North, leaving the South upon the receipt of the intelligence of the passage of the secession ordinance by the South Carolina convention, and arriving at Cincinnati on Christmas day, A. D. 1860. I went from thence to Minnesota, Iowa, and Wisconsin, where I, in public lectures, exposed the nefarious character and conduct of the jumpers-up of the mushroom confederacy. I taught some in the free schools of those States. I preached some, but labored most for the overturning of the most unprovoked, wicked, and God-forsaken rebellion in the annals of time. I came home soon after the corpse was buried, and since then have been working in reconstruction harness with all my might.

Answer to interrogatory 13. Only loyalty to "the best government the sun ever shown upon," and holding the offices for which democrats have a strong hankering. Poor fellows.

Answer to interrogatory 14. The Hon. George W. Whitmore was a Union man during the war, and lay in a confederate bastile for a long period, while Herndon was fighting to keep him there, to confiscate his property, and to alienate him and his wife and little ones when the North should get whipped. Whitmore is still loyal, and Herndon is an unreconstructed rebel. Whitmore loaths the horrid carcass of the confederate beast, while that beast is still Herndon's idol, if his boasts on the stump in the late canvass can be relied upon.

Answer to interrogatory 15. The speeches of Whitmore and his supporters were full of patriotism, argument, and persuasion, while those of Herndon and his supporters were full of treason, falsehood, and denunciation.

Answer to interrogatory 16. The democrats at the Herndon barbecue at Rush, Cherokee County, raised a flag upon a pole one hundred and fifteen feet high, with a large Texas star in the center of the blue field, with all the stars representing the other States very small. There was none I could count representing West Virginia. It was taken down at the suggestion of the adjutant general of the State, General Davidson, and converted into a United States flag such as waved at Yorktown in

1782, at New Orleans in 1815, in Mexico in 1847, at Appomattox in 1865, and at Rush in 1871. The United States flag was used by republicans at different places during the canvass and election.

Answer to interrogatory 17. Whitmore indorsed the Constitution as it is; Herndon indorsed the "Constitution as it was." Whitmore sanctioned the great statutes of equal rights, reconstruction, civil rights, and Ku-Klux laws, while Herndon denounced them all as infamous.

Answer to interrogatory 18. Whitmore encouraged obedience to law and respect for the officers of the law, while Herndon's speeches were calculated to incite a spirit of resistance to law, and a contempt for the officers of the law, and such was the effect produced. He declared at Shiloh camp-ground, near Creswell, that Governor Davis was a perjured scoundrel, and ought to be hung.

Answer to interrogatory 19. From the general knowledge I have of the mode and manner in which Herndon and his supporters conducted the late campaign, exhorting men to camp at the polls, denouncing the order of Governor Davis touching the election, urging the democrats to have nothing to do with radicals, and urging the wives of republicans to disrespect their husbands, and not to attend to the natural wants of their radical husbands, and the sayings of democratic ladies that they could see Governor Davis's heart broiled, and could ride twenty miles to see a radical lynched, I have no hesitation in saying, in

Answer to interrogatory 20. That there was a moral as well as intellectual and physical intimidation, that deprived the Hon. George W. Whitmore of at least 5,000 votes in the late congressional election held in the first district, on the 3d, 4th, 5th, and 6th days of October, A. D. 1871.

GEO. W. WHITMORE, Contestant, vs. W. S. HERNDON.	Contested election pending in the House of Representatives of the Federal Congress.

Cross-interrogatories to be propounded to William V. Tunstall, witness for contestant, which it is agreed may be answered without further delay, and we waive the ten days' notice on this proviso, to wit: that the said interrogatories and cross-interrogatories be answered by the said witness in our presence, or with our having due notice and the opportunity of being present when answered.

Cross-interrogatory 1. Who wrote the interrogatories, to which these are cross-interrogatories, herewith propounded to you? Did you not write them yourself?

Cross-interrogatory 2. Who wrote the words "Hon. William V. Tunstall," indorsed on the wrapper or outside sheet of these interrogatories? Did you not do it yourself?

Cross-interrogatory 3. If ever you acquired the distinction of "honorable" as a title, state when and how, and by whom is the title given you? If by any one except yourself, state who.

Cross-interrogatory 4. Who wrote the interrogatories propounded by contestant, in above-entitled cause, to Mrs. M. G. Tunstall? Did you not write them yourself? Is not Mrs. M. G. Tunstall your wife?

Cross-interrogatory 5. At whose instance have you been made a witness in this case? Has it not been at your own solicitation or request?

Cross-interrogatory 6. Have you not the chronic habit of participating as a witness in contested elections? How many cases of the kind have you been a witness in during the past two years? State the cases and their results.

Cross-interrogatory 7. How much public money, or how much money have you received, either public or private, for your services in contested elections as a witness, or otherwise, during the past two years? And state who paid you and for what particular service.

Cross-interrogatory 8. In propounding the direct interrogatories to yourself, did you aim to put yourself on trial or the fairness of the election under investigation?

Cross-interrogatory 9. Have you any profession or vocation? If so, name it. Will you say that you are a minister of the gospel, or will you say that you are an active politician, or will you say you are one of Governer Davis's police, whose business it is to manipulate popular elections, or will you say you combine all these Christian, social, and political virtues in your one individual character?

Cross-interrogatory 10. Do you believe in a future state of rewards and punishments? Do you believe in God, or the political party that gives you office?

Cross-interrogatory 11. For what are you indicted in the Federal district court of Western Texas, whose sessions are held at Tyler, or for what were you indicted in said court? And without intending to inquire whether you be guilty or innocent of said charge, you will please state whether you have ever been acquitted of said charge by a trial on the merits of the case. If so, state when.

Cross-interrogatory 12. Did you not, in the town of Crockett, State of Texas, at some time during last summer, or at some other time or place, admit to Dr. E. Currie, of said town, that you were indicted in the Federal court at Tyler, Texas, for stealing, or for breaking letters while postmaster at Palestine, or something to that amount or effect?

Cross-interrogatory 13. Have you a distinct recollection of the language used toward you by the Hon. Morgan C. Hamilton, in the constitutional convention of Texas, while sitting at Austin, in 1868 or 1869, while addressing that honorable body, on the subject of your conduct as secretary of that convention? State where you were at the time. Were you not present? What did the Hon. Morgan C. Hamilton, now a United States Senator from Texas, then and there say? And, without intending to inquire into the truthfulness of said charge, you will state whether you resisted the same; if so, state in what way.

Cross-interrogatory 14. Do you have a distinct recollection of the language indulged by Governor E. J. Davis, in a public speech in the town of Rusk, Texas, in 1869, toward yourself, when he and Governor A. J. Hamilton were canvassing the State for election? If yea, state what he said; and if you cannot state it verbatim, then give the substance of his statements.

Cross-interrogatory 15. Did Governor Davis not at that time profess to entertain a very despicable opinion of you? You will please state how you and Governor Davis fixed this matter up, so as to justify him afterward appointing you on the police force. What sort of a compromise did you make? Were you not afterward removed from said office? If so, by whom and for what? Were you not thereafter reinstated on said police force? If so, by whom and for what purpose.

Cross-interrogatory 16. How much money have you drawn from the public funds as a policeman? How long have you held such office? What is your salary per month or year?

Cross-interrogatory 17. State what you have done as said policeman. Have you done any duty toward repressing crime, or have you not all the while been engaged with your official authority as policeman aforesaid "*in active political life?*"

Cross-interrogatory 18. If, in answer to 6th direct interrogatory, you undertake a response by giving what, in your imagination, were acts of hostility to the Government, you will state if you and your crowd in Texas are not in the habit of treating every denunciation of the extravagance and corruption of the present misrule in Texas as acts of hostility to the United States Government?

Cross-interrogatory 19. If, in answer to direct interrogatory 7, you say you have experienced "personal and private and pecuniary injuries at the hands of those you still regard as foes to the Government," then you will be gracious enough to state if you have not been openly and publicly denounced not only by democrats but also by republicans, and even by your own brother and other relatives, or some of them, as a bad and unworthy man? If, however, you indulge in such testimony, then confine yourself to facts and figures.

Cross-interrogatory 20. If, in answer to direct interrogatory 11, you say you know of any "Ku-Klux dens," then state if you are not a member of this mystic clan, never seen in this latitude except by you and your friends?

Cross-interrogatory 21. If, in answer to direct interrogatory 12, you state where you were during the rebellion, then give the place and places in the Northern States, where you became acquainted, and also state the names of some respectable citizen or citizens in each place, who can be appealed to for your good behavior on such occasions.

Cross-interrogatory 22. Direct interrogatory 13 so clearly indicates that the mind that draughted these interrogatories already had willing answers ready and knocking at the door for entrance, we would feel curious to know what particular preceding question or questions called forth a description of "such wrath from the democracy." Please answer.

Cross-interrogatory 23. If, in answer to 14th direct interrogatory, you say that you know the "status" during the war of Hon. W. S. Herndon for Hon. G. W. Whitmore, then state just how you were possessed of such ubiquity as to be in the North and yet also in the South at the same time. When did you first make the acquaintance of G. W. Whitmore? When did you first make the acquaintance of Hon. W. S. Herndon, if ever?

Cross-interrogatory 24. If in answer to direct interrogatory 15 you undertake to state the character of speeches made by the respective candidates and their supporters, then state the character of their supporters respectively as you understand it. Were not Whitmore's supporters exclusively the negroes, and a few white men always in office or seeking one? Were not Herndon's supporters the great mass of intelligent and honest white men of the district?

Cross-interrogatory 25. If in answer to direct interrogatory 16 you say under what flags respectively the two parties rallied, then state every flag you saw during the contest. State the place where and time when you saw it; and describe that flag as near as you can, and every one of them, giving time and place to each.

Cross-interrogatory 26. If in answer to direct interrogatories 17 and 18 you state what you conceive to be the feelin gs and expressions of the anti-radicals toward the United States laws and the State authorities, you will state if those expressions were not confined to the denunciation of obnoxious acts and measures and the villains that are robbing the people in Texas as well as in New York, and especially to the *enabling act*, the printing law, the militia, and police measures and forces of which you are a *worthy* member.

Cross-interrogatory 27. If in answer to direct interrogatories 19 and 20 you say that the republicans were intimidated and kept from the polls by political opponents, give the name and residence of every one so intimidated and kept away; also the name and residence of every one so intimidating, and exactly what he did, and how he did it, and when he did it, and who was present.

Cross-interrogatory 28. Have you any conscientious scruples about contesting an election to defeat the popular voice when it pronounces against you and yours? Had you not as lief have or see your friends have a profitable office, obtained without the consent of the people concerned, as with their consent?

Cross-interrogatory 29. Were you not a supporter of the Hon. G. W. Whitmore in the late canvass? If so, what induced your support in preference to your neighbor, Mr. A. T. Monroe? Did Mr. Whitmore not promise you some appointment or some favor if he was elected, or something to that effect? If so, state what it was.

Cross-interrogatory 30. What did you expect to get in the way of an office or anything else in return for your support to Whitmore, and how much has been your disappointment in consequence of his defeat?

Cross-interrogatory 31. Where was General Davidson during your peregrinations at the election? Will he testify to what you *swear to*, or would he not contradict your statement? Where were you during the election?

Cross-interrogatory 32. What do you think of the propriety, not to say decency, in putting your wife forward as a witness in this contested election? Do you consider that she is in the possession of facts of peculiar significance bearing on the fairness or unfairness with which the election was conducted about which others are not equally cognizant? If yea, state the facts.

Cross-interrogatory 33. Do you not regard the political troubles of the country, and especially of the South, as furnishing a rich field for the harpies of political parties; and are you not simply striving for a share of the spoils and public plunder that now afflict an unhappy and suffering people?

Cross-interrogatory 34. Who burned the school-house and church used by the white people and belonging to them at Shiloh? How far is that from your residence, bearing the distinguished name of Creswell? As a policeman, did you ferret out the perpetrator of this vile deed?

Cross-interrogatory 35. Who burned the town of Crockett in April, 1871? Did you make any effort to ferret out the perpetrator?

Cross-interrogatory 36. Who burned the town of Crockett again in October, 1871? Did you or your police make any effort to apprehend the guilty party?

D. A. NUNN,
W. A. STEWART,
For W. S. HERNDON.

Cross-interrogatories.

Answer 1. I wrote the direct interrogatories to which these are cross-interrogatories, as well as nine-tenths of all others upon the part of contestant, George W. Whitmore, having been substituted instead of H. W. Moore, to act as attorney for Whitmore, at Moore's request.

Answer 2. I wrote "Hon." before my name upon a stray leaf in which interrogatories were wrapped, in contradistinction to a low flunky dem-

ocrat. I think it should be applied, by way of courtesy, to all republicans.

Answer 3. I was once honored with the position of judge; I was secretary of the reconstruction convention of Texas, that framed our almost incomparable constitution. When republicans address me a letter, they sometimes write "Hon. William V. Tunstall." When they address me orally, they say "Judge." Democrats seldom call me at all, and never to dinner.

Answer 4. Mrs. M. G. Tunstall is my wife, and I am proud of her. I asked her a few questions, about thirteen years ago, and she answered them so graciously that I deemed it not amiss to ask her some more, and I did, in the matter alluded to.

Answer 5. First thing I knew, here comes a freedman down to Creswell with a note from Hon. G. W. Whitmore, requesting me to meet him in Crockett, and I did so. He said to me then that he wanted my testimony in this contested-election case, and also my assistance otherwise. Said I, "Barkis is willing," or words to that effect.

Answer 6. The habit has not yet become chronic, but if the democrats don't do better in elections than they have been doing, the habit might become so, and then woe to the democrats that aspired to a cushioned seat. I never participated in but one contested-election case, but shall endeavor to make amends by double diligence in future. In November, 1870, there was an election for senator and representatives in this senatorial district. The Ku-Klux got the most votes, in the same manner that Herndon received a majority in this case, to wit, by "lawlessness and crime, intimidation and fraud." I beat the case, though Dillard, one of the contestees, stole some of the papers in the case, as the investigation and suspicious circumstances clearly indicated. I would have contested a similar case last October, but was sick when the legislature met. I shall never suffer a Ku-Klux to sit comfortably in a parliamentary body, from my section, until every legitimate means has been exhausted, unless Providence or the Ku-Klux intervene.

Answer 7. I received the usual witness fees and no more, which did not cover the expenses. Republicans, I trust, are too honorable to offer or receive a bribe; and democrats, though corrupt enough, didn't have any money. It has been hard times with them since the radicals got the offices, especially when office was once the sole dependence of so many of them.

Answer 8. The responsibility of lugging personalities into this case rests wholly upon contestee. I am only giving tit for tat. One of my mottoes is, "Fight the devil with fire," and another one is, "Don't tread on me." I have stood every test applied to me so far in life, and shall shirk none in the future. "I fear no evil but sin; no being but Almighty God."

Answer 9. I hold the credentials of a clergyman, over the signature of Bishop Simpson. As to politics, I do my level best for my country. I am a member of the State police force; I am president of the board of school directors of Houston County; I am president of the National Civil Rights Association for this county; I am superintendent of a Sabbath-school composed of colored people, and have a literary colored school in my door-yard; I run a post-office and two small farms at Creswell; I am also captain of a company of State guards; I am also a Mason, an Odd-Fellow, and a member of the Union League. How is that for high? I was United States commissioner, but resigned.

Answer 10. I do believe, with all my heart, in a future state of rewards and punishments, and never expect to meet a democrat in heaven

who has died since the election of Abraham Lincoln as President, in 1860. I believe in God, and the republican party.

Answer 11. There never was an indictment against me in any court in any State, Federal or State. The man who first made such a statement has given me a lie-bill, and that fact is generally known, for it was published in several papers in the State.

Answer 12. I have no recollection of ever telling Dr. Currie anything of the sort. If I said anything of the kind, it was in the way of contempt, scorn, irony, and sarcasm.

Answer 13. The Hon. M. C. Hamilton is a very bitter and flippant speaker, and once, in the reconstruction convention, turned his heaviest artillery upon the subscriber, but the committee on style, the committee on finance, and the special committee raised to investigate the matter, clearly exonerated me, and I discharged all the duties of secretary of the same and superintended the printing of the constitution and distributed the same, and left the convention and Austin with as untarnished a reputation as I could have reasonably hoped when I first entered upon the duties of the office. I had sufficient satisfaction in reading the report of the committee and recording the vote of the convention adopting the same. It is true I thought a little hard of Senator Hamilton then, but after he got into the United States Senate and denounced the Texas democracy as "a set of cutthroats" I forgave him. I knew he was incorrect in reference to me, but know he was right in his charge against Texas cutthroats.

Answer 14. I think I recollect Governor Davis's language referred to. I was a supporter of Governor Hamilton at the time, and prompted Governor Davis in some statistics pertaining to the convention of which he was president and I the secretary. Governor Davis turned to me, and, calling my name, said he could find forty better men than myself in Huntsville. He afterward stated to General Monroe that he intended by the remark to compliment the citizens of Huntsville. I afterward gave my support and vote to Governor Davis. Refer to Judge Cooper, General Monroe, and Major Waddell, who were present.

Answer 15. Well, he wasn't loving me any just then. After Governor Davis had been in office some year, I went to Austin; we met friends, and neither mentioned the affair. Patriotism is stronger with republicans than any petty political cuts in a heated campaign for the weal or woe of the State for four years to come. Governor Davis was victorious, and was magnanimous enough to send for me and receive me cordially. I was removed from police force by chief of police once because I held the office of United States commissioner. I sent up my resignation as United States commissioner and was reinstated upon the police force.

Answer 16. I have drawn $404 in State warrants, and have signed pay-rolls for $160 more. Have held the office of policeman since the 28th day of April, A. D. 1871, minus the month of July; salary, $80 per month.

Answer 17. Since I have been on the police force, I have discharged faithfully the duties of the office. When there were no criminals about, and I could hear of none elsewhere, for the time being I would try to shed a little light on democrats near at hand, and cheer up the downtrodden friend of his country.

Answer 18. I regard the spirit in which it is done as rebellious; I regard the language as treasonable and the statements false.

Answer 19. Democrats have denounced me by the square, but this I regard as a compliment. I have as many personal friends in the

republican party as I can divide courtesies with, and have maybe a personal enemy or so. To twit me with the ravings of my Ku-Klux brother reminds me of the two women who were hung in Arkansas by a Texas captain named "Dave."

Answer 20. No, sirree!

Answer 21. Cincinnati, Ohio, Indiana House, Gideon Nimond, landlord, superintendent M. E. Sunday-school, Carthage, Ohio. Governors Ramsey and Austin, of Minnesota; taught school in Saint Peter, where Gov. Austin resides. Saw him often at his office. He heard my lecture upon the rebellion in the capitol building at Saint Peter. Senator Harlan visited him at his residence in time of the M. E. annual conference at Mount Pleasant, his home. Heard his speech to his constituents. He is a clergyman, and I heard him in love-feast Sunday morning. I refer, further, to the entire newspaper world up there; also, Bishops Simpson and Janes, and Dr. J. P. Newman, chaplain in the United States Senate, whom I met at Minneapolis M. E. conference, at Minnehaha Falls, and also traveled down the Mississippi River, from Saint Paul to Winona, together. I can refer to Drs. Riley and Maurah, at Washington City, during the winter of 1865–'66. But perhaps it will suit the purpose better to refer to a confederate cousin of mine, Mrs. C. C. Clay, whom I met in Washington City.

Answer 22. Having the presumption to differ with the rebel chiefs, the impudence to be loyal, the audacity to ask for free speech and equal rights, and the assurance to hold an office.

Answer 23. I know the status of these men just as I know the status of John A. Murrell or Jeff. Davis and Schuyler Colfax. I first knew Whitmore, personally, in 1866, and Herndon in 1871.

Answer 24. From a national stand-point I view the supporters of Whitmore as loyal, and the supporters of Herndon anti. Be it said to the praise of the colored man that he is loyal, and I pray for the conversion of the antis. The great mass of the intelligent white people went off after strange gods in 1860. Had Whitmore carried all the office-seekers, Herndon would have come up missing.

Answer 25. I did not think to count 'em, not knowing the question would arise.

Answer 26. These measures are not necessarily obnoxious to loyal men; and opposition no doubt grows out of the fact that they are made by loyal men. These measures will, in a few years, place Texas alongside of Ohio and other loyal States. There are no villains in office; there are no robberies to compare to the New York democracy. No democratic paper ever complained of the printing act after he got the printing. No democrat ever complained when a loyal man was arrested by the police; it was only when his ox was gored; there is a difference in bulls. The enabling act is all right when democrats get an office.

Answer 27. I do not wish to point out peaceable citizens to Ku-Klux vengeance.

Answer 28. If ever the democratic party does elect a man by fair means, "The son of Alknomah will never complain." I believe in a free ballot, a fair count, and the majority ruling.

Answer 29. I gave my support to General Monroe in the convention; and Whitmore receiving the nomination, the Houston County delegation, I being one, pledged themselves to support the nominee.

Answer 30. I never asked nor received a promise of preferment for any political act of mine and afterwards pursued a course to obtain it. My disappointment has been in proportion to the relative patriotic merits of Whitmore and Herndon.

Answer 31. He was peregrinating himself. General Davidson is a republican and a gentleman, and will testify to the truth. His testimony would contradict no statement of mine, here or elsewhere. I was at Rusk three days during the election, and part of one day at Crockett. I left Rusk in company with General Davidson, and stopping a few hours at Crockett, and he went with me to my house at Creswell, and he remained at my house the remainder of the day.

Answer 32. Anything is right that secures the ends of justice. Mrs. Tunstall's testimony will develop whether she knows anything relevant to the spirit of the Houston County democracy in the late canvass.

Answer 33. I design my course in politics to keep political harpies and Ku-Klux from again plunging the country into a fratricidal war, and teaching loyal men how to look up a black-jack with a rope cravat around their necks. Women were hung in Arkansas.

Answer 34. I was in Crockett at the time of the conflagration. I believe C. H. Davis burnt it. Three that he occupied have been burnt since the rebellion. The democrats burnt ten in this county, in 1871, as is supposed under the impression that they were going to be used for free schools. The democrats are the only enemies of schools in these parts. I live between three hundred and four hundred yards of the burnt house; Mrs. Dodd lived in fifty or sixty yards of the ashes. A Mrs. Lee and sister washed within sixty or seventy yards of the rubbish; the day it was burnt, in the evening, I had Dr. Keel, a justice of the peace, to come upon the ground, and had all the neighbors to come together for an investigation; and after they came together they filed a protest, written by Davis, against holding any investigation, and Davis saved his bacon. I did all that duty and authority could permit. These ladies who lived and washed near the place that day left immediately, and I have not heard from them since, and Davis is also gone. Several cotton-gins were burnt in this county, in 1871, and one steam saw-mill, near Crockett.

Answers 35 and 36. Crockett has been burnt four times; twice during the war when I was in the North. When it was burnt in April, 1871, I was in Austin; when it was burnt in October, 1871, I was in Rusk, in Cherokee County, fifty miles from home and forty from Crockett. At the instance of the citizens, James Davis, a colored policeman, went to Nacogdoches County and arrested a colored democrat, and brought him to Crockett. On his arrival three democrats took him from said policeman, and carried him into a stable and mobbed him. He was then put in jail, where he remained until court. One of the lynchers was foreman of the grand jury. During the sitting of the grand jury, the negro mysteriously disappeared and has not been heard of since. The night upon which he disappeared a man was seen on a white horse, at a late hour of the night, by some persons who were returning home from a sick-room, riding in full speed down the street, in the direction of the jail, reminding one of death on a pale horse, and bringing up visions of women hung in Arkansas during the war. There is some circumstancial evidence that the said democratic freedman was guilty. Here I close my answers to a foolish personal attack upon me by cross-interrogatories, that have no more relevancy to this contested-election case than the biographies of Baron Munchausen, Robinson Crusoe, Don Quixote, Tam O'Shanter, Will o' the Wisp, the Arabian Knights, the Wandering Jew, the Witch of Endor, or Jeff Davis. But the democrats are in the fix the little boy was that was trying to catch the woodchuck. When asked if he thought he'd get him, he replied: "Get him? I've got to get him; we are out of meat at our house." So

the democrats have got to resort to such things. They are out of arguments and facts.

WM. V. TUNSTALL.

THE STATE OF TEXAS, *Houston County:*

I, Leroy W. Cooper, judge of the 3d judicial district of the State of Texas, certify that the Hon. W. V. Tunstall, the witness named in the foregoing interrogatories, this day came before me, and after being by me duly sworn true answers to make to the direct and cross interrogatories hereto annexed, deposed and answered as follows. All of the answers to the foregoing direct and cross interrogatories.

In witness whereof I subscribe my name and affix the seal of the district court of Houston County, February 2, 1872.

[SEAL.] LEROY W. COOPER,

Judge 3d District of the State of Texas.

---

4. *Depositions taken in Smith County.*

In the matter of contested congressional elections, first congressional district, State of Texas.

GEORGE W. WHITMORE, CONTESTANT,
vs.
W. S. HERNDON, CONTESTEE.

Evidence taken before Hon. G. Norton, judge of the ninth judicial district of the State of Texas, at Tyler, Smith County, commencing on the 19th day of February, 1872.

Present: S. T. Newton, attorney for contestant, and John C. Robertson and Stephen Reeves, attorneys for contestee.

The said attorney Newton, in behalf of contestant, propounded the following interrogatories to M. WOOD:

Question 1. What is your name?—Answer. My name is Matthew Wood, residing in the city of Tyler, State of Texas.

Question 2. How long have you resided in the county of Smith?—Answer. About sixteen years.

Question 3. What position do you now hold, and what position have you held since the war?—Answer. I now hold the position of mayor of the city of Tyler, and United States commissioner, and I have acted as justice of the peace for about nine months by appointment under Governor Hamilton or the provisional government, and the same office under the authority of the military authorities about fourteen months.

Question 4. To what political party do you now belong, and to what political party have you belonged since the war?—Answer. I was originally a Union man, and now belong to the republican party of the United States.

Question 5. Is that party known by any other name?—Answer. Sometimes it is called the "radical party."

Question 6. Are you acquainted with G. W. Whitmore, and how long have you known him; and to what party does he now belong, and has belonged?—Answer. I have been acquainted with G. W. Whitmore twelve years; he belonged and still belongs to the republican or radical party; was originally a Union man.

Question 7. Are you acquainted with W. S. Herndon, the contestee;

to what party does he now belong and has belonged in the past?—Answer. I am acquainted with W. S. Herndon; have known him ten or twelve years; he now belongs to the democratic party, and has belonged to that party since the war.

Question 8. Did W. S. Herndon serve in the confederate army?—Answer. To the best of my belief he was a captain in the confederate army.

Question 9. Were you present at an election held for the first congressional district on the 3d, 4th, 5th, and 6th days of October, A. D. 1871, and in what county and precinct?—Answer. I was at said election in the county of Smith, State of Texas, in precinct No. —.

Question 10. Was the full registration vote of said county polled in which you voted?—Answer. I don't think it was—I voted at said election.

Question 11. Why was the full registration vote of said county not polled?—Answer. I do not know.

Question 12. Did you hear any person or persons say during the election that they were afraid to vote the republican ticket?—Answer. I heard three persons say in substance that they were afraid to vote the republican ticket; two of these were mechanics, living in Tyler, who said that they wished to vote the republican ticket, but were afraid because they thought it would injure their business. The third stated that he was living in the midst of a people that belonged to a democratic club, and was a republican, but did not know what they might do; I told him he was a fool, to go and vote, and no one would disturb him; I do not know how this man voted, or whether he voted at all.

Question 13. Did you hear any of the speeches of W. S. Herndon during the canvass, and were they not of an inflammatory character against the government of the U. S., and of the administration of the State?—Answer. I only heard contestee make one or two speeches; they were of an inflammatory character, denouncing the State and Federal administration.

Question 14. Were not these speeches very bitter against the United States Government and State administration?—Answer. I think these speeches were very bitter against the administration of the United States and State governments for the last ten years, and spoke of the oppression as administered by the radical party.

Question 15. Did you hear the speeches of the democratic party here during the days of secession—1860, '61?—Answer. I did.

Question 16. Were the speeches made by contestee and his supporters in the last canvass in said district not of the same character as those during those years?—Answer. They were as inflammatory, but not of the same character; the first advocated secession, the last did not.

Question 17. What do you mean by inflammatory?—Answer. Calculated to arouse and alienate the feelings of the people against the radical government. This was applied to the State and General Governments as controlled by the radical party.

Question 18. Did you hear any other speeches dur ng said canvass?—Answer. Yes; I heard one by Judge Reagan.

Question 19. State the character of that speech.—Answer. It was inflammatory against the Government as administered by the radical party. He denounced the radical party as thieves; he said that some called themselves Union men, others moderate republicans, but he classed them all alike as thieves, and, so help him God, he would never shake hands with one of them, if he knew it.

Question 20. Was he not in favor of the repeal of all the reconstruc-

tion laws of Congress?—Answer. I don't recollect the language he used; he did not seem to be favorable to any of them.

Question 21. What party supported George W. Whitmore?—Answer. The republican party.

Question 22. What party supported W. S. Herndon?—Answer. The democratic party.

Question 23. What was the manner in which the contest was carried on between Herndon and Whitmore? Answer. I do not know. Both parties seemed to be exerting themselves. I did not know whether they were friendly or unfriendly.

Question 24. Were not the Democrats greatly enraged against the supporters of contestant, and did not many, in your opinion, remain from the polls in consequence of the proscription, ostracism, and taunts of the democrats?—Answer. I do not know.

Question 25. Were there not democratic clubs organized through the district, and did they not have or keep a book in which they registered or kept the names of all the voters, and were not all those who would not register as democrats taunted, socially ostracised, and threatened with the vengeance of the democratic party?—Answer. I think there were democratic clubs established through the county and district. I heard and believe they kept a book in which they kept a list of the members of both parties. As to the balance of the question I do not know.

Question 26. Did you know of any person or persons who, because they were republicans previously or at the time, were ordered or advised to leave the country on account of their political opinions, or for having given their vote to the republican candidate?—Answer. I do not know; but I heard one man say that he was put out of business because he was a republican. This was a short time before the election. I do not think this man voted, but do not know; he was a white man and a painter; his name was Kildec; I do not think this man was entitled to vote.

Question 27. What counties did you visit during the canvass, and what were your means of information? Were you insulted during the canvass on account of your political opinions?—Answer. I was in Smith and Van Zandt Counties; my means of information were rather limited. I do not think I was insulted during the canvass.

Question 28. What is the feeling entertained by democrats in this State against Union men and republicans?—Answer. Rather bitter.

Question 29. Were those men who were disfranchised by the fourteenth amendment to the Constitution of the United States permitted to vote for member of Congress of this district at the late election, and if so, for whom did they vote, for contestant or contestee?—Answer. I don't know. I think and believe they were, and voted for contestee.

Question 30. Did you know of any one who was disfranchised by the constitutional amendment, who voted for contestant?—Answer. I do not.

Question 31. Were those who voted for contestee entirely or mostly men who aided in the late rebellion?—Answer. I do not know, but believe that most of them were.

Question 32. Are not said voters hostile to the Government of the United States?—Answer. Most of them were opposed to the radical or republican government.

Cross-examined:

Question 1. What is your age?—Answer. Sixty-six years of age.

Question 2. During your lifetime did you ever know a fairer, freer election than the last congressional election?—Answer. As far as I

know the last election was a fair one, and the city was guarded by the police. As far as the election in this county was concerned, as far as I know, it was a quiet, peaceable election. If there was any intimidation or anything done by one portion of the citizens to prevent any person voting, I do not know it.

Question 3. For whom did you vote?—Answer. For Whitmore.

Question 4. You say there were democratic clubs in this county?—Answer. That was my understanding.

Question 5. Were there not also Loyal Leagues of the other party in the county?—Answer. That was my understanding.

Question 6. Did not the Loyal Leaguers vote for contestant?—Answer. I believe they did, as a general thing. I believe some of them did not vote for either of the candidates.

Question 7. Were the latter intimidated by the democrats?—Answer. I do not think they were intimidated by democrats. I think it was from personal feeling toward the contestant.

Question 8. Was there not a split in the republican party in this county?—Answer. I think and believe there was to some extent.

Question 9. During the nights of the election days were not runners sent out by the republican party to bring voters in?—Answer. I think there were.

Question 10. Did you not hear that if the men did not come in and vote for contestant that they would be fined fifty dollars each?—Answer. I did not.

Question 11. Did you hear that the State police were sent out for voters?—Answer. If I did, I do not now recollect.

Question 12. In Captain Herndon's speeches alluded to as inflammatory, did he not denounce the radical party?—Answer. He did denounce the government of the radicals; he spoke of the Government being in the hands of the radicals for the last ten years, and denounced that Government.

Question 13. Did you understand him as denouncing the Government of the United States or the administration of the radical party?—Answer. He denounced the Government of the United States as administered by the radical party.

Question 14. Did you not hear contestant denounce the Government of the United States as administered by the democratic party years ago?—Answer. If I did I do not recollect it.

Question 15. Did he not tell the freedmen in his speeches that the object of the democratic party was to put them back in slavery?—Answer. I do not remember that he did.

Question 16. Did you ever hear contestant threaten to have all those disfranchised by the fourteenth amendment of the Constitution of the United States who voted indicted by the United States grand jury for doing so?—Answer. I do not think I ever did. If he did I do not remember it.

Question 17. What is the feeling of the republicans of this county against the democrats?—Answer. I am sorry to say it is pretty bitter.

Question 18. Were there not a great many persons who had previously registered who, having lost their registration papers, registered over again, and thus increased the apparent number of registered voters?—Answer. I think there were a good many, but do not know how many.

Question 19. Were there not many voters who were registered, and subsequently left the county before the last election?—Answer. I think there were some, but do not know how many.

Question 20. Were there any persons under twenty-one years of age that voted for contestant?—Answer. I don't know.

Question 21. Was not contestant a member of the secession legislature?—Answer. I think he was.

Question 22. Has he not since the last war been a register in bankruptcy?—Answer. He has.

Question 23. Give the names of the three persons mentioned in the direct examination who said they were afraid to vote.—Answer. Mr. Fowler, Mr. Taylor, George W. Spivey.

Question 24. Were not the police in full force, and armed to protect the citizen to his right to vote, and were they not the appointees of Governor Davis and members of the republican party?—Answer. I answer all the above by saying I think so.

Question 25. Were not the register and judges and managers of the election members of the republican party?—Answer. They were.

Question 26. Taken as a mass, are not the supporters of W. S. Herndon the most intelligent and respectable citizens of the country?—Answer. I think they were, for the reason that a majority of the supporters of contestant were colored voters, and not considered so intelligent or respectable.

(Contestant objects to above question and answer on the ground of being an irrelevant issue.)

Question 27. Taken as a mass, were not the supporters of George W. Whitmore the most illiterate, and composed mostly of freedmen, of colored, and office-holders?—Answer. I think they were.

(Contestant objects to the above question and answer on the ground of being an irrelevant isssue.)

Question 28. Are not the great mass of the democratic party of this country now loyal to the United States Government?—Answer. I don't know, but reckon they are.

Question 29. Were there any grounds to apprehend any force, violence, or personal injury to any republican in Smith County on account of his politics in the late congressional election? Did you have any fears, or do you believe anybody else had any ground for fear of violence or personal injury?—Answer. I did not know of any of my own knowledge, but I heard of some; I had no fears myself. I do believe others had grounds for fear of personal injury to their persons.

Question 30. Who had such grounds for fear of violence?—Answer. Malechi Hitchens, esq. Hitchens said to me that he was assaulted by a man, and that the man threatened to raise a company and come to Tyler and drive away the damned police; and called him a damned nigger radical. I know nothing of this of my own knowledge; I know nothing except what Hitchens said.

Question 31. Did Hitchens vote at said election?—Answer. I think he did.

Question 31. Do you know of any persons who failed to vote on account of this affair?—Answer. I do not of my own knowledge.

Question 32. How many persons, if any, do you know of that failed to vote at said election?—Answer. Of my own knowledge I know of no single voter but what voted if he wanted to.

Question 33. Did either of the candidates, Whitmore or Herndon, on any day or days of the election have any whisky or other spirits which they used, gave away, or treated to any other person by themselves or through any other person within the city of Tyler?—Answer. If they did I don't know so.

Question 34. Did you not invite Richard B. Long to take a drink of

Whitmore whisky during said election days?—Answer. If I did I do not remember. If I did so it was a jest; I had no such whisky in my hands, and no money to buy such whisky.

Re-examined by contestant:

Question 1. Might not voters in different parts of the county have been intimidated or kept from voting by threats without your knowing it?—Answer. They might; I don't pretend to know everything.

Question 2. Do you not believe that they were?—Answer. I believe that there were some from what I heard.

Question 3. Did not contestant vote against secession?—Answer. I believe he did.

Question 4. Did you not hear contestant make a speech in the town of Tyler after the passage of the ordinance of secession by the convention and before its ratification by the people, and did he not denounce the action of said convention as rebellious, and those engaged in it as rebels, in the most severe terms?—Answer. I heard his speech, and my best recollection is that he did, and advised the people to vote against it.

Question 5. Were not a portion of those who voted for contestant slaves before the war?—Answer. They were.

Question 6. Had that class of people the advantages of education?—Answer. They had not.

Question 7. Were not the white voters, including the office-holders, that voted for contestant, as respectable and intelligent as those who supported Captain Herndon?—Answer. I think they were.

Question 8. Were you acquainted with the office-holders belonging to the democratic party before the war?—Answer. I was tolerably well acquainted with them.

Question 9. Are not the officers now as intelligent and as honest as the officers were then?—Answer. I think they are, take them altogether.

M. WOOD.

Contestant introduced JOHN M. CLAY, February 27, A. D. 1872, and propounded the following interrogatories:

Question 1. In what county and congressional district do you reside?—Answer. Smith County, first congressional district, State of Texas.

Question 2. How long have you resided in Smith County?—Answer. twenty-two years.

Question 3. Are you acquainted with contestant George W. Whitmore, and contestee W. H. Herndon, and how long have you known each of them?—Answer. I have known Colonel Whitmore thirteen or fourteen years. I have known Captain Herndon about eight or ten years.

Question 4. Were they candidates of their respective parties for Representative in Congress in the late election?—Answer. Colonel Whitmore, the contestant, was the candidate of the republican party; the contestee, Captain Herndon, was the candidate of the democratic party.

Question 5. Were you at an election held in the first congressional district on the 3d, 4th, 5th, and 6th days of October, 1871, and in what county and precinct?—Answer. I was at said election in Tyler, Smith County.

Question 6. Was the full registered vote of the county cast in which you voted?—Answer. I do not know.

Question 6. Did you hear any of the speeches of contestee during said canvass, and were they not of an inflammatory character against the Government of the United States and the administration of the State?

State contestee's speech as fully as possible.—Answer. I only heard a portion of one of his speeches. I should consider the portion of the speech I heard pretty bitter against the Government, national and State.

Question 7. Did not the speeches made by Herndon and his supporters deter and intimidate many voters from registering, and keep many from the polls, and were they not republicans?—Answer. I do not know that it did.

Question 8. Were not all the efforts that could be produced by the democrats at the late election exerted on the 3d, 4th, 5th, and 6th of October, 1871, to prevent the fair election of G. W. Whitmore?—Answer. I do not think I ever saw an election conducted fairer at the polls in my life. I do not know what took place before they came to the polls.

Question 9. Do not you believe from what you have heard that unfair means were used by the democratic party before the election to prevent a full registration and vote, and to prevent the voters of the republican party casting their votes for contestant?—Answer. I do, if it is true what I heard.

Question 10. Do you believe what you heard to be true?—Answer. From some of the parties, I did.

Question 11. What party in the last election supported contestant?—Answer. The Union party or republican party.

Question 12. What party in the last election supported the contestee?—Answer. The democratic party.

Question 13. What did contestee say about the fourteenth and fifteenth amendments to the Federal Constitution, civil-rights bill, Ku-Klux bill, and the reconstruction laws of Congress? State what you heard him say about these measures during the canvass.—Answer. I did not hear all Captain Herndon's speech, and do not recollect his saying anything on these points.

Question 14. What was the manner in which the canvass was conducted between contestant and contestee? Were not the democrats greatly enraged against the supporters of contestant, and did not many, in your opinion, remain from the polls in consequence of the proscription and ostracism and taunts of the democrats? What number do you suppose were in your county who would have cast their votes for contestant if not interrupted or interfered with?—Answer. I do not know how the canvass was conducted. Both parties did their best as on other elections. I have heard some men say that they staid away from the election, but do not know how many staid away.

Question 15. To what party did the men who told you they staid away belong?—Answer. To the republican party.

Question 16. How many did you converse with on that subject?—Answer. Two.

Question 17. Was this before the days of registration and election; and if so, how long?—Answer. It was during the registration.

Question 18. Were they white or colored men?—Answer. White.

Question 19. Did they give you their reasons? If so, state them.—Answer. They stated that they were mechanics, and had families, and if they voted the republican ticket it would interfere with their profession in the future.

Question 20. Is there not now, and has there not in the past, prevailed a spirit of social ostracism against republicans?—Answer. I think there has socially, but not in a business point of view.

Question 21. Do you know of any acts of violence practiced against Union men in the years 1867, 1868, 1869, 1870?—Answer. Of my own knowledge I do not; I have heard of some.

Question 22. Did there not in the last canvass prevail a spirit of intimidation against the republican party?—Answer. I think there did.

Question 23. Were there not democratic clubs organized through the district, and did not they have or keep a book in which they registered or kept the names of all the voters; and were not all those who would not register as democrats taunted, socially ostracised, and threatened with the vengeance of the democratic party?—Answer. I understood that there were democratic clubs in various portions of the county, and heard that they kept the book, and that it was for that purpose; but I do not know the fact; I have not been approached that way myself, and I don't know. I think I have heard it, but don't know that I have.

Question 24. Do you know of any person or persons who, because they were republicans previously or at the time, were ordered or advised to leave the country on account of their political opinions, or for having given their vote to the republican candidate?—Answer. I know of none myself, but have heard of one.

Question 25. From the proceedings and threats of the democrats was it not reasonable to apprehend ostracism in society, personal abuse of one's self or family, destruction of property or probably of life, if a person voted the republican ticket at the late election in October, 1871?—Answer. I do not think, in my estimation, that there was any danger of a man's losing his life in this county. I think that there was such prejudice existing against the republican party as would affect them socially.

Question 26. Do you know of any person or persons who have been injured or insulted by reason of their being republicans?—Answer. I know of persons professing to belong to that party who have been both injured and insulted by parties professing to belong to the democratic party.

Question 27. What are the feelings democrats entertain in this State towards Union men and those who claim to be republicans?—Answer. I think there is an unpleasant feeling existing.

Question 28. Were those men who were disfranchised by the fourteenth amendment to the Constitution of the United States permitted to vote for members of Congress of this district at the late election; and if so, for whom did they vote—for contestant or contestee?—Answer. I think that they were permitted to vote, and that at least a majority voted for contestee. I do not know of one that voted for contestant.

Question 29. Were those who voted for contestee entirely or mostly men who aided in the late rebellion? Are not said voters now hostile to the Government of the United States, and would not such men, if they had the power, destroy the Constitution and the Government?—Answer. I think, as a general thing, they were men who were engaged in the rebellion; as to what they would do if they had the reins of government in their hands I cannot say. I think said voters are hostile to the Government of the United States, and to the State administration.

Question 30. Do you know whether or not there is a secret organization known or called Ku-Klux Klan in this county, district, or State?—Answer. Of my own knowledge I do not, but I have heard that such an organization has existed in this county, State, and congressional district, but don't know that it does now.

Question 31. Do you know the objects of that organization?—A. I do not.

Question 31. From information do you know the objects of that organization?—Answer. I have heard that it was to run radicals and negro-equalizers from towns, precincts, and counties, and to keep them from coming to the polls to vote.

Cross-examined by counsel for contestee:

Question 1. Who told you that there was a Ku-Klux Klan in this county?—Answer. I have heard several speak of it. A man named Prince and his two sons, who sold out and went to Arkansas, for what cause I do not know; he heard several speak of it jestingly.

Question 2. Did you ever hear a democrat speak of the Ku-Klux, except in a jesting way; and if so, who was it?—Answer. I have, though not in this district. The man's name was Copeland.

Question 3. What is his first name, where does he live, and what did he say?—Answer. Charley Copeland. He lives in Palestine County. He spoke of seeing crowds of them in the town of Burleson—different times.

Question 4. When was that conversation?—Answer. About three weeks ago, at my house.

Question 5. Was he a democrat?—Answer. He professed to be so.

Question 6. Did he say those Ku-Klux were composed of democrats or republicans?—Answer. He did not say.

Question 7. Is not all that you have stated with regard to the Ku-Klux mere hearsay, or do you know of your own knowledge?—Answer. Only from hearsay.

Question 8. Do you know of any man who was deterred from voting at the late election by being made afraid of violence?—Answer. I do not.

Question 9. Give the names of the two mechanics heretofore alluded to.—Answer. L. C. Taylor and G. W. Spivey.

Question 10. What is the feeling of the republican party toward democrats?—Answer. I think unpleasant.

Question 11. To what party do you belong?—Answer. To none. I am a Union man.

Question 12. For whom did you vote for Congress?—Answer. I acted as all other men twenty-one years of age should act. I decline to answer further.

Question 13. Was not Captain Herndon's speech alluded to denunciatory of the republican administration and State administration, and especially against Governor Davis, and not against the Government of the United States?—Answer. That is what I meant. I meant against the administration.

Question 14. Was not the late election held in this county for Congressman fair, free, and without restraint?—Answer. It was fair and free, and a man could go to vote if he wanted to.

Question 15. Were not the State and county police, sheriff and constables, at the election armed to protect every one in his right to vote; and did they not do it?—Answer. They were here, and they did it.

Question 16. Who did you understand was disfranchised by the fourteenth amendment?—Answer. Those that held office previous to the war and taken an oath to support the Government of the United States, and then assisted in the rebellion.

Question 17. Did not the republican party have their clubs or leagues throughout this county and district?—Answer. I understand they did.

Question 18. Did they not keep a book with a list of members?—Answer. I understood so.

Question 19. Are they not bound by oath or obligation to support the candidate of their party?—Answer. I have heard that they are.

Question 20. Do not the republican party ostracise democrats in this county?—Answer. I don't think so, to a great extent.

Question 21. Do you know of any democrats being appointed as clerks, deputy clerks, sheriff, or deputy sheriff, or any other office in this county?—Answer. I do not.

Question 22. Please state if you know of any intimidation by reason of the spirit of intimidation you alluded to, by which republicans were prevented from voting?—Answer. None, excepting the two persons alluded to above.

Re-examination by contestant's counsel:

Question 1. Did you ever know or hear of a republican belonging to the Ku-Klux Klan?—Answer. I have not.

Question 2. Did you have reference to the manner in which the election was conducted at the polls in the town of Tyler?—Answer. I did.

Question 3. Did you mean to embrace in that answer the manner in which the canvass was conducted in Smith County prior to and at the election; that there were no undue influences practiced by contestee and his supporters to prevent a full and free registration of the votes of the county?—Answer. I did not. As I said before, I did not know how the canvass was conducted.

Question 4. Was Governor Davis governor of the State of Texas while the canvass was going on?—Answer. I think he was.

Question 5. Was contestee's denunciations against Governor Davis while he was filling the office of governor?—Answer. I understood him to be denouncing Governor Davis's administration.

Question 6. Were the denunciations of contestee against General Grant as President of the United States?—Answer. I did not, that I recollect, hear him mention Grant's name. I understood him to be against the administration of the United States.

Question 7. From whom do the republicans in this town buy their supplies, and where do they do their trading?—Answer. They buy them where they can get best suited.

Question 8. Has there been a republican dry-goods store kept in Tyler since the war?—Answer. I think there has.

Question 9. How many at any one time?—Answer. I know of one, and there may be others.

Question 10. How many dry-goods stores are kept by democrats?—Answer. Six or eight, eight or ten. I don't know exactly.

Question 11. Do not the republicans generally buy their goods from the democrats?—Answer. They do.

Question 12. Do you know of their making any difference between a democratic and republican merchant?—Answer. I do not.

Re-examined by contestee's counsel:

Question 1. Has any one prevented republicans from opening as many stores as they desired to in Tyler?—Answer. Not that I know of.

JOHN M. CLAY.

Contestant introduced JOHN FLYNNE, February 21, A. D. 1872.

Question 1. What is your place of residence, and how long have you resided there?—Answer. My residence is Tyler, Smith County, Texas. I have resided there something over three years.

Question 2. Do you know contestant George W. Whitmore and contestee W. H. Herndon, and how long have you known them?—Answer. I am acquainted with both of them, and have known them three years.

Question 3. Were you at an election held for members of Congress in the first congressional district, State of Texas, held on the 3d, 4th, 5th, and 6th of October, A. D. 1871?—Answer. I was present at said election.

Question 4. Who were the candidates of the respective parties in said election?—Answer. Contestant and contestee.

Question 5. Which political party did contestant represent in that canvass?—Answer. The republican party.

Question 6. Which political party did contestee represent in that canvass?—Answer. The democratic party.

Question 7. Was the full registered vote polled in the county in which you voted?—Answer. I do not know whether a full vote was polled or not. I saw the votes of some freedmen rejected who wanted to vote for contestant, on account of the disparity in the two books used at said election. I heard also that several freedmen came in on Saturday, the next day after the election closed, who had been induced to believe that Saturday would be time enough to vote.

Question 8. Did not the speeches made by Herndon and his supporters deter and intimidate many voters from registering and keep many from the polls, and were they not republicans?—Answer. I do not know.

Question 9. Were not all the efforts that could be produced by the democrats previous to and at the late election, exerted on the 3d, 4th, 5th, and 6th October, 1871, to prevent the fair election of G. W. Whitmore?—Answer. There was a great deal of exertion made to impress the democratic party with the necessity of obtaining success and returning their own candidate. I think that there was every exertion made to prevent the fair election of George W. Whitmore. Do not know of any foul play by either party.

Question 10. What party supported contestant?—Answer. The republican party.

Question 11. What party supported contestee?—Answer. The democratic party.

Question 12. Were not the democrats greatly enraged against the supporters of contestant, and did not many, in your opinion, remain from the polls in consequence of the proscription and ostracism and taunts of the democrats? What number do you suppose were in your county who would have cast their votes for contestant if not interrupted or interfered with?—Answer. I thought so. I do not know how many would have cast their votes for contestant if not interfered with. Several persons stated to me before the election that they were so circumstanced that they were afraid to vote for the republican party. I do not know whether they voted or not.

Question 13. In what other counties in this congressional district were you in during said canvass?—Answer. I was in Wood and Rains.

Question 14. Did you not, in the counties of Wood and Rains, in this congressional district, observe a spirit of intimidation prevailing among the democrats against the republicans?—Answer. I received a good deal of information to that effect.

Question 15. Were you not advised by your republican friends in the aforesaid counties not to let your political status be known?—Answer. I was. I was also advised not to visit Wood County at all. As soon as it was understood that I was an examiner under the school law, there was no welcome for me, and in some places I was insulted.

Question 16. Did you apprehend danger?—Answer. I did apprehend danger, and was prepared for it.

Question 17. Do you believe, from the spirit of intimidation which you saw manifested there, that a full and fair republican vote could be cast at the election?—Answer. I believe that there could not; that the democratic party with which I came in contact treated me with considerable dislike.

Question 18. Did you find in any other county in this district the same spirit existing?—Answer. I did in Anderson County, Van Zandt, and Henderson Counties.

Question 19. Were you insulted and abused in either of these counties?—Answer. I was.

Question 20. What was the character of the insult and abuse?—Answer. I was insulted and abused because I belonged to the republican party.

Question 21. From the proceedings and threats of the democrats, was it not reasonable to apprehend ostracism in society, personal abuse of one's self or family, destruction of property or probably of life, if a person voted the republican ticket at the late election in October, 1871?—Answer. I apprehend that a man might expect personal abuse and ostracism in society if he voted the republican ticket.

Question 22. Do you know of any person or persons who have been injured or insulted by reason of their being republicans?—Answer. I do.

Question 23. What is the feeling entertained by democrats in this State toward Union men and those that claim to be republicans?—Answer. Candidly speaking, it is not friendly feeling.

Question 24. If contestee is permitted to retain his seat in the Congress of the United States, what, in your opinion, will it lead to in Texas?—Answer. I think it will lead to a revival of the issues settled by the constitutional amendments.

Cross-examined by contestee's counsel:

Question 1. How many persons have you known insulted for opinion's sake only? Give their names. Were there not some other cause for the insult?—Answer. One; my own. None that I know of.

Question 2. What are the feelings of republicans toward democrats?—Answer. My own feelings toward democrats are friendly. I think I can vouch the same for several other republicans that I know. There may be exceptions.

Question 3. Do you know the feelings of the democrats better than of the republicans?—Answer. In my intercourse with the democrats I have found that they look upon republicans as persons whose politics are hostile to their interests.

Question 4. Do not the republicans look upon the politics of the democrats as hostile to their interests?—Answer. I do.

Question 5. What are your politics?—Answer. Republican.

Question 6. How long have you belonged to the republican party?—Answer. I was always conservative, and belonged to the republican party of this county either intentionally or avowedly one year.

Question 7. Who was it that you spoke of as being intimidated, giving their names?—Answer. There were some colored people, living between here and Starrville, who told me they were afraid to vote. I do not know their names. It was before the election, two or three weeks. They were three in number.

Question 8. Do you know whether these three men voted or not?—Answer. I do not.

Question 9. What do you mean by moral influence?—Answer. I used the word moral in contradistinction to physical. By moral influence I meant the demeanor of one party to another, such as being social or unsocial, friendly or unfriendly.

(Objected to on the ground of irrelevancy.)

Question 10. Is it possible, in your opinion, for a minority to get up such a state of feeling as to make the doctrines and practices of the majority unpopular?—Answer. I think it is possible.

(Objected to on the ground of irrelevancy.)

Question 11. Do you think that a minority could exercise a moral intimidation such as you spoke of in your direct examination?—Answer. I think that a minority could so exert themselves and so succeed in disseminating their principles and opinions as to gain a moral ascendancy.

(Objected to by contestant for same reason.)

Question 12. The kind of moral intimidation then that you spoke of consists in the dissemination of principles?—Answer. The moral intimidation I alluded to was the manifestation of dislike from the non-adoption of the same principles.

(Objected to by contestant for same reason.)

Question 13. Now do you think that such moral intimidation would influence voters?—Answer. I do think so.

Question 14. Was that intimidation used more by one party than the other?—Answer. As far as I know, I do not know that the feeling exists in the republican party.

Question 15. Do you know that that feeling existed in the democratic party?—A. I know that it existed in my own instance. I was insulted and reviled myself while traveling.

Question 16. Did that influence your vote?—Answer. No.

Question 17. Do you think you have more moral force of character than other men?—Answer. I do not.

(Objected to on account of its irrelevancy.)

Question 18. What do you mean by ostracism?—Answer. Exclusion from society.

Question 19. Is the democratic party the society of Smith County?—Answer. Probably nine-tenths of it is composed of democrats.

Question 20. Do the white republicans generally associate with negroes?—Answer. They do not.

(Objected to on account of irrelevancy.)

Question 21. Does the ostracism of the negroes by the white republicans influence the negroes in their votes?—Answer. Not that I know of.

Question 22. Who advised you not to visit Wood County?—Answer. More than half a dozen told me. Except my own family, I do not recollect any one.

Question 23. Were they republicans or democrats?—Answer. They were white republicans or negroes—probably both.

Question 24. Was not William H. Cousins one of the democrats that insulted you?—Answer. No; he was not.

Question 25. Were not Elijah Linsay and Willis Roberts also some of the democrats that insulted you, and was not that caused by a dispute about bacon?—Answer. I never knew or thought of anything of the kind.

JOHN FLYNNE.

Contestant introduced EDWIN P. DUKE February 21, 1872.

Question 1. In what county do you reside?—Answer. In Smith County.

Question 2. How long have you resided in the County of Smith?—Answer. I have been in the county off and on fifteen years.

Question 3. Do you know contestant G. W. Whitmore, and contestee W. S. Herndon?—Answer. I know contestant and I know contestee by sight.

Question 4. How long have you known contestant?—Answer. I first knew him in 1865.

Question 5. Were you at an election held in the first congressional dis-

trict on the 3d, 4th, 5th, and 6th of October, 1871, and in what county and precinct?—Answer. I was at Tyler, Smith County, precinct No. 1.

Question 6. Who were the candidates of the respective parties at that election?—Answer. Contestant G. W. Whitmore and contestee W. S. Herndon.

Question 7. Of which of the political parties was contestant the candidate?—Answer. The republican party.

Question 8. Who was the democratic candidate?—Answer. Contestee W. S. Herndon.

Question 9. Did you vote at said election?—Answer. I did not.

Question 10. Was the full registered vote of the county polled at that election?—Answer. I do not know.

Question 11. Were not all the efforts that could be produced by the democrats, prior to and at the late election, exerted on the 3d, 4th, 5th, and 6th of October, 1871, to prevent the fair election of G. W. Whitmore?—Answer. I did not see anything. Everything was fair as far as I saw.

Question 12. What position do you now hold and did you hold during said election?—Answer. State policeman.

Question 13. What party supported contestant, George W. Whitmore?—Answer. The republican party.

Question 14. Were you not sent during the canvass to other counties in this congressional district for the purpose of arresting parties who had created political disturbances, and who had threatened the lives and property of republicans?—Answer. I was not, unless when I was ordered to Wood County. It was on such business during the month of November. I do not know, as Lieutenant Staler was in command.

Question 15. Were you, in Wood County, during last summer, prior to the election, insulted, abused, and mistreated, or any violence offered to you as policeman?—Answer. Yes, sir.

Question 16. What was that violence?—Answer. Shooting at me; I was not injured, but my horse was shot; this I believe was about last May.

Question 17. Did you travel in that county alone, or had you company?—Answer. He has frequently traveled alone, but at that time he was about 300 yards ahead of my brother-in-law.

Question 18. Was this in day-time or night?—Answer. It was just about dark.

Question 19. Were you going to or coming from Quitman?—Answer. I had been in the town of Quitman that evening, and was going from town.

Question 20. How far were you from the town of Quitman when shot at?—Answer. four miles.

Question 21. Were not you and Lieutenant Stalers insulted in Quitman?—Answer. I was not.

Question 22. Were you and Lieutenant Stalers insulted in the clerk's office by D. W. Crow?—Answer. Lieutenant Stalers and myself went into the sheriff's office; I introduced Lieutenant Stalers to the sheriff of the county; soon Lieutenant Stalers asked what time the mail left Quitman for Tyler; Mr. Crow was sitting at a desk writing; he remarked that if it thundered the mail-carrier would not leave for a week; that if the officers these times could find an excuse they would not go; and insinuated abuse to the officers under the present administration; I then said to Mr. Crow, I thought you were an officer; Crow said, I am no officer, but I am a radical; I believe that the reason he did not abuse

the officers personally was because he found out Lieutenant Stalers was an officer.

Question 23. Did you consider it safe for you to travel through that county alone as a policeman?—Answer. No; I did not.

Question 24. What counties in this congressional district did you visit, and what were your means of observation?—Answer. Henderson, Anderson, Houston, Van Zandt; I just passed through; I staid a day or two at Palestine and Crockett.

Question 25. Were you insulted during the canvass on account of your political opinions or on account of your position as policeman?—Answer. Not that I remember of now.

Question 26. Do you know of any person or persons who have been insulted or injured by reason of being republicans?—Answer. I was out of this congressional district till the 1st of September. Of my own knowledge I do not remember having seen any one insulted, but I have heard of some.

Question 27. What is the feeling entertained in this State by democrats against Union men and those that call themselves republicans?—Answer. My opinion is that there was a bitter feeling existing.

Question 28. Were those who voted for contestee entirely or mostly men who aided in the late rebellion?—Answer. Yes, to the best of my knowledge.

Question 29. Are not said voters hostile to the Government of the United States, and would not such men, if they had the power, gladly destroy the Constitution and the Government?—Answer. I have heard men who I supposed to be democrats curse the officials and the Government.

Question 30. How many voters were deterred from voting the republican ticket in the county or counties which you have visited by the manner in which the contestee and his supporters urged his cause before the people?—Answer. I do not know. I know of several who did not vote, but do not know their reasons.

Cross-examined by contestee's counsel:

Question 1. Did you have any personal enemies in Wood County outside of political difficulties?—Answer. None that I know of.

Question 2. How long before the election were you shot at?—Answer. In the May preceding.

Question 3. Was there any such bitterness of feeling as you spoke of having existed in the democratic party against the republican party existing in the republican party against the democratic party?—Answer. There was some bitterness on both sides, but I think more on the side of the democrats, because the negroes voted the republican ticket.

Question 4. Have you any other evidence of there having been greater bitterness on the part of the democracy than on the side of the republicans except that which you have stated?—Answer. I have none—only the difference in politics.

Question 5. Was not a great majority of the white voters of this district former rebels?—Answer. I think they were.

Question 6. Did the democrats curse the officers and the General Government or the government of the present administration?—Answer. As at present administered.

Re-examined by contestant's counsel:

Question 1. Were not the democrats opposed to negroes voting?—Answer. I had heard a great many of the democrats say that they were.

Question 2. Was not that the cause of the extreme bitterness of the democrats against the republicans?—Answer. That was one cause.

Re-examined by contestee's counsel:

Question 1. Was not a general invitation given to the negroes to vote the democratic ticket?—Answer. I do not know.

E. P. DUKE.

Contestant introduced D. B. LUCKY February 22, 1872.

Question 1. In what county and district do you live?—Answer. In Smith County, first congressional district, State of Texas.

Question 2. What office did you hold during last year?—Answer. I held several offices; I was registrar of voters in Smith County.

Question 3. What number of registered voters are there in this county?—Answer. About 4,400 or 4,500.

Question 4. How many votes were polled in last congressional election?—Answer. 3,126 votes.

Question 5. What is the strength of the republican vote in this county?—Answer. About 1,700 or 1,800; I think fully 1,800.

Question 6. Do you know how many republican votes were cast at the last election for Congress?—Answer. I do not.

Question 7. Was there a full republican vote polled the last election?—Answer. I do not know; I know that some republicans did not vote.

Question 8. How many colored voters are there in Smith County?—Answer. I think one-half the voters are colored.

Question 9. How many republicans, in your opinion, did not vote?—Answer. I cannot find more than five or ten; there might have been more who did not vote, of whom I have no knowledge.

Cross-examination by contestant's counsel:

Question 1. How many democratic voters do you think there are in the county of Smith?—Answer. 1,600 or 1,800; about the same as the republicans.

Question 2. Did the democrats vote their full strength?—Answer. I don't think they did.

Question 3. Did not as many negroes vote the democratic ticket at said election as white men vote the republican ticket?—Answer. I do not think they did.

Question 4. Were there not two election books before the judges at the late election?—Answer. There were.

Question 5. Will you explain why there were two registration books?—Answer. One was the original registration book, used during the military registration; the other was a transcript, with the addition of the names I had registered.

Question 6. Was not the last registration book the one by which the judges were guided during said election?—Answer. It was.

Question 7. Was not any man denied the privilege of voting whose name did not appear on said book?—Answer. He was; there were two colored men admitted to vote upon certificates whose names did not appear on said book.

Question 8. Can you not account for the republicans failing to vote, because there was a split in the republican party?—Answer. No; the republicans that did not vote said they had no candidate in the field; they considered one man as good as another.

Question 9. Are you a republican?—Answer. I am.

Re-examined by contestant:

Question 1. Did you vote the republican ticket?—Answer. I expect you will have that to prove; I did not vote for Herndon.

D. B. LUCKY.

Contestant introduced COLUMBUS BROCK February 22, 1872.

Question 1. What was your age and where did you live last year?—Answer. I was seventeen, and lived in Wood County.

Question 2. Were you at an election held in the first congressional district on the 3d, 4th, 5th, and 6th October, A. D. 1871; and, if so, in what county?—Answer. I was not at the polls, but was in Quitman, Wood County, part of the time during the election.

Question 3. Did your father live in said town?—Answer. He lived at the edge of it.

Question 4. Do you know contestant and contestee?—Answer. I know George W. Whitmore; and I know W. S. Herndon when I see him.

Question 5. Which party supported George W. Whitmore?—Answer. The republican party.

Question 6. Which party supported W. H. Herndon?—Answer. The democratic party.

Question 7. What was the feeling in Wood County of the democrats towards the republicans?—Answer. It was bitter.

Question 8. Do you know of any violence by the democrats against the republicans?—Answer. I know of a policeman being whipped. My father was shot; I should consider it on account of his politics.

Question 9. By whom was he shot?—Answer. By the democrats.

Question 10. Was his life threatened by the democrats?—Answer. Once—after he was shot.

Question 11. Did he not have to leave the county two or three times to save his life?—Answer. Yes; twice.

Question 12. Do you know whether a full republican vote was cast at the congressional election referred to?—Answer. I have often heard it said that the full republican vote was not cast.

Question 13. Were any of the republicans in that county deterred from voting for fear of violence from the democrats?—Answer. I heard one freedman say that his life was threatened and he was afraid to vote.

Question 14. By whom was his life threatened?—Answer. By a democrat.

Question 15. Do you not know of others?—Answer. I have heard no one else say he was intimidated, but I have often heard men say that others were intimidated.

Question 16. What means were used that you heard of to intimidate them from voting?—Answer. Violence to the person.

Question 17. Do you know of any freedmen who left that county for fear of being injured?—Answer. I know of one of my own knowledge.

Question 18. Do you know of the sheriff of Wood County having threatened policemen?—Answer. I do not.

Question 19. Do you not know that the sheriff of Wood County assaulted a policeman? Answer. I have heard it.

Question 20. What was the name of that policeman?—Answer. Guss Jones.

Question 21. What was the assault made with?—Answer. With a shot-gun.

Question 22. Were there not efforts and threats made against policemen by the democrats to keep policemen from the town at and prior to

the election, and did not the sheriff of the county say that he could whip every policeman that Davis could send there?—Answer. I never heard any threats, but I heard the sheriff say that he could whip every damned policeman that Davis could send there.

Cross-examined by contestee's counsel:

Question 1. How do you know the feeling of the democracy towards the republican party?—Answer. Because I have heard them say that they hate them.

Question 2. Give the names of some of those who said they hated republicans.—Answer. A. Z. Givens, W. J. Richards, Timothy Good, John Williams, and there are others; perhaps those exact words were not used.

Question 3. Are the members of the republican party well disposed to the members of the Democratic party?—Answer. They have dealings with each other, but I do not think they are well disposed to each other.

Question 4. How do you know the politics of the policeman spoken of as being attacked?—Answer. He told me he was a republican.

Question 5. What was the evidence that he was attacked for political reasons?—Answer. I heard the evidence given in, which showed no cause for the difficulty.

Question 6. By whom and when was the violence inflicted in this particular case?—Answer. By a man named Tom Pogue; it was the latter part of last summer or the first of the fall.

Question 7. Do you know Tom Pogue to be a democrat?—Answer. I have his word for it.

Question 8. What are your father's politics?—Answer. Republican.

Question 9. Who shot at your father?—Answer. I do not know. I have good reason to believe that A. Z. Givens was one of them; I think John Williams, the sheriff, shot also.

Question 10. Were not these men attempting to arrest your father, and was he not resisting?—Answer. They said they had come to arrest him; he did not resist?

Question 11. Did he attempt to escape?—Answer. He did not.

Question 12. Did he refuse to go with them?—Answer. He said that if they had a regular *capias* for him, and would show it, that he would surrender.

Question 13. Did he refuse to go with them?—Answer. He said that if they would show the *capias* he would go; this was all the refusal, if it was any.

Question 14. Was your father armed when the posse approached him, or did he then obtain a weapon?—Answer. He had a gun.

Question 15. Do you know whether your father has written a letter to the reporter stating that he is a new-departure democrat?—Answer. I do not know.

Question 16. Who threatened your father's life?—Answer. West Trout threatened his life; others said if he did not leave the country he would be killed.

Question 17. Is not West Trout the uncle of a lady to whom your father wrote, or was reported to have written, an insulting letter?—Answer. I do not know that he ever wrote an insulting letter to a lady.

(Objected to as irrelevant to the issue.)

Question 18. Was it not reported or thought that your father had written such a letter to Mrs. Cook?—Answer. It was reported that he had written a letter—not an insulting letter.

(Objected to as irrelevant and improper.)

Question 19. Do you not believe, or was it not reported, that West Trout was mad with your father for having written said letter to his niece?—Answer. I know nothing about it.

(Objected to as irrelevant.)

Question 20. What did your father leave for the other time?—Answer. He left because he thought his life was in danger.

Question 21. Who told you that there was not a full republican vote at said election?—Answer. Loss Taylor, a special policeman, P. T. Shuford, and others.

Question 22. Were not all those who told you this republicans?—Answer. Yes.

Question 23. What freedman told you he was afraid to vote, and was this before or after the election?—Answer. It was after the election. I do not know his name.

Question 24. Who threatened violence to the persons?—Answer. I don't know their names.

Question 25. Were there not policemen in Quitman during the days of election?—Answer. Special policemen.

Question 26. Do you know of Sheriff Williams having attacked the policemen during the days of election?—Answer. Not during the days of the election.

Question 27. Were you paid by contestant, or offered pay, to testify in this case?—Answer. No.

Question 28. In case George W. Whitmore starts a paper in the town of Tyler or elsewhere, are you not promised a position as printer or devil?—Answer. I am not.

Re-examined by contestant's counsel:

Question 1. When your father last left Quitman, did he leave in daytime or night?—Answer. In the night.

Question 2. Who did he leave in company with?—Answer. He left in company with Lieut. Stalers and two other policemen.

Question 3. Why did he leave at night?—Answer. Because he thought he would be followed and killed.

Question 4. Who was he afraid of?—Answer. The democrats.

Question 5. Would it not, in the town of Quitman, be regarded as an insult for a republican to write a letter to a lady?—Answer. Some might consider it that way.

Re-examined:

Question 1. When did your father leave Wood County for the first time for fear of losing his life?—Answer. Between 10th and 20th May, 1871.

Question 2. When the second time?—Answer. The last day of the term of the court, November, 1871.

Question 3. When was he shot and arrested by Sheriff Williams and his party?—Answer. Fourth of September, A. D. 1871.

Question 4. When did Sheriff Williams attack the policeman?—Answer. September 2, 1871.

COLUMBUS BROCK.

Contestant introduced GEORGE DOUGLASS February 23, A. D. 1872.

Question 1. Where did you live last year?—Answer. In Quitman, the county-seat of Wood County, in the first congressional district, State of Texas.

Question 2. How long had you lived in Wood County?—Answer. Twelve years and a half.

Question 3. To what political party do you belong?—Answer. To the republican party.

Question 4. Do you know contestant, George W. Whitmore?—Answer. I do.

Question 5. Were you at an election held in the first congressional district on the 3d, 4th, 5th, and 6th days of October, 1871, and in what county and precinct?—Answer. In Quitman, Wood County, precinct No. 1.

Question 6. Did you vote at that election?—Answer. Yes.

Question 7. For whom did you vote?—Answer. W. G. Whitmore.

Question 8. Which party voted for contestant, G. W. Whitmore?—Answer. The republican.

Question 9. Do you know contestee, W. S. Herndon?—Answer. I know him when I see him.

Question 10. Which party supported W. S. Herndon?—Answer. The democratic.

Question 11. Was the full registered republican vote polled at that election?—Answer. No, it was not.

Question 12. Do you know why the republicans did not vote?—Answer. There was a bad time in consequence of a little talk around.

Question 13. How many republicans do you know that did not vote?—Answer. Close to where I lived there were two republicans that did not vote.

Question 14. What was the reason these men did not vote?—Answer. One of them was living on a man's land, named McKnight, that said that if he did not vote for the democrats, he should hunt another place.

Question 15. Was McKnight a democrat?—Answer. Yes.

Question 16. Do you know of any other?—Answer. Another freedman, named Warner, was living with a man named Haynes; Warner was a republican, but voted the democratic ticket. Warner said he voted the democratic ticket, because Haynes told him he could not get along there well unless he did do so.

Question 17. How long was this before the election?—Answer. About a week.

Question 18. Do you know of any others that did not vote?—Answer. There were several that lived in the forks of the river, in said county, that did not come to vote.

Question 19. Do you know the reason?—Answer. They said they heard that if they came up to vote, that they would not get home.

Question 20. How many?—Answer. Twenty-five men belonging to our militia company did not come to vote or attend the musters, because they were afraid. The election-day was our regular muster-day. One man came down, and said the others said they were afraid to come.

Question 21. What was said would be done to them if they came?—Answer. That they would be waylaid and shot.

Question 22. What political party were they afraid of?—Answer. I do not know.

Question 23. Do you know of any threats of violence being made by democrats against republicans, if they voted?—Answer. Not personally; I have heard others say so.

Question 24. Do you know of any person being insulted on account of his political opinions?—Answer. I was living in a home of a man named John F. Jones, in Quitman, and had paid him rent for the whole

year. After the election he told me to hunt me another home. I asked why. "You are a mean nigger." I asked him if I had been mean to him. He said no. I asked him why then did he want me to leave. He said that lots of them said that if they were he, they would not have such a mean nigger in their yards. He told me to go to my friends, Brock and Shuford.

Question. 25. Did he offer to pay back the money for the house?—Answer. No; he said I owed him.

Question 26. Did he say anything about his voting?—Answer. He did not.

Question 27. Were Brock and Shuford republicans?—Answer. They were.

Question 28. How long was this after the election?—Answer. A week, or at most two weeks.

Question 29. Did you hear the speeches of Colonel Whitmore and W. S. Herndon, in Quitman?—Answer. I was there and heard.

And now comes contestee, W. S. Herndon, by his attorneys, John C. Robertson and Stephen Reaves, and at this time objects to the testimony of John Flynne, sr., and Columbus Brock, and George Douglass, being embodied in the evidence taken, because the contestant or his attorney has not at any time given contestee or his attorneys any notice that he would take the testimony of said witnesses.

JNO. C. ROBERTSON,
STEPHEN REAVES,
Attorneys for Contestant.

The examination of George Douglass having proceeded thus far without objection, contestee's counsel may now determine whether or not the examination of this witness shall be continued or not, reserving the benefit of the objections just taken.

Contestee's counsel decline to proceed.

his
GEORGE + DOUGLASS.
mark.

Contestee's counsel objects to witness signing the above.

FEBRUARY 23, A. D. 1871.

Contestant then introduced JOHN DONNELLY.

Question 1. In what county and State do you live?—Answer. Smith County, State of Texas.

Question 2. How long have you lived in that county?—Answer. Ten years and upward.

Question 3. Do you know contestant George W. Whitmore, and contestee W. S. Herndon?—Answer. I do.

Question 4. Were you at an election held on the 3d, 4th, 5th, and 6th October, 1871, in the first congressional district; and if so, in what county and precinct?—Answer. I was, in Smith County, precinct No. 1.

Question 5. Did you vote at that election?—Answer. I voted for Colonel Whitmore; the previous election I did not vote.

Question 6. Why did you not vote?—Answer. Because I had no registration paper, they would not receive my vote.

Question 7. Had you registered before that?—Answer. I had registered in Nacogdoches County.

Question 8. Did you have your registration paper with you?—Answer. I had it the first time I voted.

Question 9. To which party did you and do you belong?—Answer. To the republican party.

Question 10. With whom did you live last year?—Answer. I lived at Tyler with Mr. Al. McFarland two or three months; was there during the election and the month before.

Question 11. How long did you live there after the election?—Answer. I quit there the last evening of the election.

Question 12. Is Mr. McFarland a democrat?—Answer. I suppose, from my ways and his, he was a democrat; he said he was.

Question 13. What caused you to leave there?—Answer. He said any man that voted against his interest, and fought him during an election as I did, should not live with him or around him.

Question 14. Has any injury been done to your person or property since the election on account of being a republican?—Answer. I do not know. I have been burned out, but do not know for what reason.

Question 15. Which one of the candidates in the late election did you work for?—Answer. I worked for Colonel Whitmore, and voted for him.

Cross-examined by contestee's counsel:

Question 1. Were you not a slave prior to the emancipation?—Answer. I was.

(Objected to by contestant on the ground of irrelevancy.)

Question 2. Do you belong to a secret society called the Loyal League?—Answer. No.

Question 3. Did not some of the democrats help you when you were burned out?—Answer. Some helped me, and some gave me a good cursing, and threatened to hit me with a stick; at least I heard so.

Question 4. Who told you?—Answer. I do not recollect.

Question 5. Who was the man that you heard would strike you?—Answer. He did not give me any name.

Question 6. Who was it cursed you?—Answer. Dr. Goodman was one; two others in his presence looked at the paper, and returned it to Dr. Goodman, and assisted me in the same way.

Question 7. Did the house spoken of as burned belong to you?—Answer. It does not; it belongs to Dr. Selman.

Question 8. Is not Dr. Selman a democrat?—Answer. I do not know.

Question 9. Do you believe he is a democrat?—Answer. I cannot believe a thing unless I know it; he has always acted fairly to me.

Question 10. In what year and at what election did you vote the first time?—Answer. I don't know.

(Objected to by contestaut's counsel on the ground of irrelevancy.)

Question 11. Did not you vote for George W. Whitmore and George H. Slaughter for the convention in 1868?—Answer. I do not now recollect.

Question 12. When will you be twenty-three?—Answer. On the 16th of July next.

Question 13. How many elections have you voted at?—Answer. Two.

Question 14. How many times have you voted for Colonel Whitmore?—Answer. Twice.

his
JOHN + DONNELLY.
mark.

FEBRUARY 24, A. D. 1872.

It appearing that witness, J. M. Brock, is unable to attend, on account of sickness, at the court-house in the city of Tyler, for the pur-

pose of having his deposition taken, according to original notice, contestant moves that the deposition of said witness be taken at his residence, which is some four hundred yards from said court-house. Whereupon counsel for contestee objected, and, as cause for said objection, states that no examination of said J. M. Brock, at his private residence, has been served upon them as the law requires, and therefore decline to cross-examine said witness, relying for the exclusion of the testimony of J. M. Brock upon the objection aforesaid.

Contestant introduced J. M. BROCK.

Question 1. In what State, county, and congressional district do you live?—Answer. In Smith County; first congressional district of Texas.

Question 2. How long have you resided there?—Answer. Since about the first of November, A. D. 1871.

Question 3. In what county and district did you live prior to that time?—Answer. In Wood County, in the same district.

Question 4. How long had you lived in Wood County?—Answer. Nearly three years.

Question 5. What office or position do you hold, or did you hold, during said time?—Answer. I am colonel of 26th regiment of militia; have been postmaster and United States deputy marshal until recently.

Question 6. To which political party do you belong?—Answer. The republican.

Question 7. Do you know contestant, George W. Whitmore, and contestee, W. S. Herndon, and how long have you known them?—Answer. I have known Colonel Whitmore since 1868; I have known Captain Herndon about two years.

Question 8. To which political party does contestant belong?—Answer. To the republican party.

Question 9. To which political party does contestee belong?—Answer. To the democratic party.

Question 10. Were you at an election in the first congressional district during the 3d, 4th, 5th, and 6th days of October, A. D. 1871; and, if so, in what county?—Answer. I was not.

Question 11. Where were you during said election?—Answer. I was in prison in the county jail of Wood County. I was put there by a mob, under a pretense of legal authority; that mob had hung round my house for months, and had repeatedly attempted to assassinate me.

Question 12. What was the cause?—Answer. I think it was on account of my political and religious opinions; I belong to the Methodist Episcopal Church, North, which is opposed by all the churches South for political reasons.

Question 13. Was the full registered vote of Wood County cast at said election?—Answer. No.

Question 14. Do you know the registered vote of that county?—Answer. About 1,200, I think.

Question 15. Do you know the full republican vote of said county?—Answer. About 500.

Question 16. How many votes were cast for George W. Whitmore in said election?—Answer. I heard about 180.

Question 17. How many were polled for contestee?—Answer. I believe over 600.

Question 18. Did you hear any speeches of contestee, or his supporters, during said canvass?—Answer. I did not hear contestee speak; I heard the speeches of some of his supporters; their speeches were inflammatory. I heard that the speech made by contestee on the 4th of

July was inflammatory; it raised a great excitement, and I was arrested the same night by a mob, or at least a mob was placed over me.

Question 19. Did contestant make a speech the same day?—Answer. He did.

Question 20. Was there much bitterness of feeling exhibited that evening, after contestant made the speech, toward him and his supporters?—Answer. There was; we were both cursed; they said witness and contestant were both in hell, and it was reported that the democratic party threatened to mob contestant; I went to contestant and informed him such was the report.

Question 21. What was the manner the contest was carried on between contestant and contestee?—Answer. It was all one-sided; no canvassing done for contestant after the 4th of July; threats and intimidation prevented the friends of contestant from canvassing the county.

Question 22. Did you attempt to canvass Wood County for contestant?—Answer. I did. I went to a democratic meeting to answer the speech of Colonel Jarvis, who was one of the supporters of contestee; I began taking notes; the speaker called the attention of the house three times to me; from the looks and threatening manner of the audience, I desisted from taking notes, because I believed I should be mobbed if I continued.

Question 23. Was the excitement against the republican party great?—Answer. It was during the entire canvass; it was so great that I expected the republicans would be driven from the county.

Question 24. What number of republican voters were kept away from the polls by the threats and intimidations of the democratic party?—Answer. I think probably 200 and 300; there was worse than intimidation; there was terror.

Question 25. Was that intimidation and terror so great as to prevent a fair republican vote being cast in that county?—Answer. Yes.

Question 26. Was any violence offered to you during said canvass?—Answer. Yes; continual, from the 4th of July till they shot me.

Question 27. What did they say they shot you for?—Answer. They told Mr. Bright, a citizen of that county, that they shot me because I was a radical and controlling the negroes.

Question 28. Was it safe for yourself or for a republican to travel in Wood County?—Answer. I do not think so; I do not think it would have been safe to make a republican speech in Quitman for the last eighteen months.

Question 29. Did you call a convention of the republican party for the purpose of nominating delegates to the republican nominating convention, held in Rusk, Cherokee County?—Answer. I did, as chairman of the republican executive committee, call said convention. From the threats and intimidation, none attended the first meeting called; I called another, and on the day that was to meet the court-house was locked up by the supporters of contestee, and the key could not be obtained; the meeting was then held in the colored school-house, said house being guarded by the police.

Question 30. Were there not democratic clubs organized in every precinct?—Answer. There were.

Question 31. Do you know of any person or persons who, on account of their political opinions, at or before the election were threatened or ordered to leave the county?—Answer. They said they ought to have killed me when I first came there—that they could control the balance; several republicans were told that if they voted the republican ticket they would be turned out of employment. Several republicans have left the county since the election on account of their political opin-

ions; George Douglass, and John Brown, and ——— Wells, and myself, are four of them, all now in this county.

Question 32. When did you leave Wood County?—Answer. I left on the last day of the November term of the district court for Wood County, in company with Lieutenant Stalers and two men of the State police force, in the night-time.

Question 33. Why did you leave in the night, and in charge of the police?—Answer. There was a conspiracy against me, and it was feared that I would be mobbed; I was told by Lieutenant Stalers that I could not live there twenty-four hours; in leaving, they carried me round town, afraid to go through.

Question 34. Were those men who were disfranchised by the fourteenth amendment to the Constitution of the United States permitted to vote for members of Congress of this district at the late election; and, if so, for whom did they vote, for contestant or contestee?—Answer. As far as I know, they voted for contestee.

Question 35. Were not those that voted for contestee mostly, if not entirely, composed of men who aided in the late rebellion?—Answer. They were.

Question 36. Are not said voters still hostile to the United States?—Answer. They are, more so in feeling than they were in 1861; I have frequently heard them say that they would gladly destroy both the Government and the Constitution.

Question 37. If contestee is permitted to retain his seat, what do you think it will lead to in Texas?—Answer. It will probably lead to a democratic victory in the next election.

Question 38. Would it not, in your opinion, have the effect of making the enemies of the Government more actively hostile?—Answer. It would; if possible, it would lead to greater hostility to the republicans here.

Question 39. Is there such an organization as the Ku-Klux Klan in Wood County?—Answer. I do not know, but believe there is, from the spirit manifested.

Question 40. Do you know a freedman named William Young?—Answer. I do know him. Young was a school-teacher, and a republican; he was run away from there and shot at; when he came back the democrats bought him a suit of clothes and gave him some money, and Young is now a democrat; he has written to me, and told me he had to deny his sentiments.

JAMES M. BROCK.

THE STATE OF TEXAS, *County of Smith:*

The undersigned, a judge of the district court in said State, do hereby certify that the foregoing seventy-nine pages are a full, true and correct record of all the proceedings had before me, in the city of Tyler, county aforesaid, in the contested election case of George W. Whitmore, contestant, *vs.* William S. Herndon, contestee, for a seat in the Forty-second Congress of the United States, from the first congressional district of said State. That each witness, before being examined, was duly sworn; that the interrogatories and his answers thereto were reduced to writing, as appears in said pages, and were signed by each witness in my presence.

Given under my hand at said city of Tyler. Witness my official signature and seal of the district court for said county.

February 24th, 1872.

[SEAL.]

Z. NORTON,

Judge Ninth Judicial District, State of Texas.

5. *Deposition of M. G. Tunstall.*

THE STATE OF TEXAS, *Houston County:*

Be it remembered that on the ——— day of January, A. D. 1872, George W. Whitmore is a contestant for a seat in the House of Representatives of the Congress of the United States, against the sitting member, from the first congressional district of the State of Texas, as to wit:

WILLIAM S. HERNDON.

I have caused Mrs. Martha G. Tunstall to come before me as a witness for contestant, when the following questions were propounded and answered by her:

Question 1. Where do you reside?

Question 2. Are your neighbors the supporters of one W. S. Herndon for Congress?

Question 3. What is their character for law-abiding, loyal, and peaceful citizens?

Question 4. Give particular incidents, acts, and demonstrations, that marks them as inimical to the powers that be and laws of the land.

Question 5. What is the treatment toward the friends of the Government by the supporters of W. S. Herndon?

Question 6. Are ladies subjected to the same indignities as men for adhesion to the Government?

Question 7. Are the little children of republicans the subjects of the same scorn, insults, and injuries as adults, by democrats?

Question 8. Did Herndon's visit and speech at Creswell increase this bitterness?

H. W. MOORE,
Attorney for G. W. Whitmore.

Contest pending in House of Representatives of the Federal Congress for the First Congressional District of Texas.

GEORGE W. WHITMORE,
vs.
W. S. HERNDON.

Cross-interrogatories to Mrs. M. G. Tunstall, witness for contestant.

Cross-interrogatory 1. What is your opinion of ladies who talk about and traduce their neighbors? What do you think of men who slander communities?

Cross-interrogatory 2. What office do you hold? Did you attend the election? Did you take any interest in the same? If so, state the reason.

Cross-interrogatory 3. Are you married? If so, give the full name of your husband, and state the number of different offices he has held since the war. And if any, state how many and what kind before the war, and where at.

Cross-interrogatory 4. Has he ever been a candidate for election before the people? If so, when and how often? Was he ever elected by popular vote? Who did he support in the contest between A. J. Hamilton and E. J. Davis, for governor, in 1869? Why did he change his support to E. J. Davis?

Cross-interrogatory 5. Who burned the Shiloh church? How far was this from your house? Was it done in day-light or at night? What class of people politically and religiously owned and worshipped at the Shiloh church?

Cross-interrogatory 6. What are the character of your feelings toward the people of this State and of the whole South? Are you not an enemy, and do you not hate with a bitter hatred the people of the country in which you live?

Cross-interrogatory 7. Is not all this because they won't vote for your husband for office?

Cross-interrogatory 8. Would not a spirit of Christian forbearance and generosity encourage a more friendly mind toward the people of your native country.

D. A. NUNN,
For W. S. HERNDON.

Deposition of Mrs. Martha G. Tunstall to interrogatories propounded by the Hon. G. W. Whitmore, wherein he contests the seat of one Captain William S. Herndon, in the House of Representatives of the Congress of the United States:

Answer to interrogatory 1. I reside at Creswell, Houston County, Texas.

Answer to interrogatory 2. The white people, all of whom are rebels and Ku-Klux, supported Captain Herndon for Congress in the late election in this district.

Answer to interrogatory 3. They rebelled against the Government in 1861; they opposed reconstruction, and now denounce the national and State authorities, and all loyal people, men, women, and children; they quarrel with and fight their own brothers, tear down loyal men's fences, mutilate their stock, poison their horses and wells, shoot at their houses, and whoop and yell like Indians in passing their homes, insult women and children, and mock a mother's grief at the grave of her offspring.

Answer to interrogatory 4. There was a camp for confederate soldiers near Creswell. One Union man was shot and killed during the war, and a freedman hung by a mob since the war. They order Union men to leave their homes. They had three barbecues here and near here during the campaign, within six weeks of each other; and at the one at this place they fired fifty anvils in front of our house, my husband being from home, and at every report they would halloo, "G—d d—n the radicals;" and at each of them abuse of the Government and the radicals was their theme. And all of this was because we are radicals, and because we had won over four men to the republican party, and had conciliated and made several lady friends. The pressure brought to bear had the effect they intended, and we were left without a single neighbor.

Answer to interrogatory 5. They slander, insult, and curse loyal men, women, and children, charge them with all sorts of infamous crimes, procure malicious indictments against them upon false charges, and order them to leave the country.

Answer to interrogatory 6. Even women do not escape their malice. Mrs. Governor Davis has been one object of their venom. Miss Dessie Huston, postmistress at Springfield, has been rudely persecuted. Two women were hung in Arkansas by Captain D. A. Nunn, of this county, during the war. Two women were shot and killed in Brown county, Texas, by home guards during the war. One old woman in Hopkins County was dragged to prison; and all this for patriotic deeds and acts of humanity. Hundreds of northern women teaching in the South have been stripped to the waist and whipped with cowhides for their

patriotism, and thousands of women have been robbed of their clothing, bedding, and provisions, and insulted and debauched, because they would not be rebels. About thirty men, women, and children of this community, through the columns of the woman-hanger's paper in this county, ordered my husband to leave the country. While he was away in the canvass, the democrats yelled and whooped like demons around our house at night, and shot off guns and pistols; and one Robert Furlow shot at my house in open daylight. Our watch-dog was shot and killed by William C. Hallmark, on the 6th of September, and on the night of the 7th some fiend knocked at my door, there being no one on the place but myself and two little children. I took the gun and would have shot him, but he ran off and escaped. My little son was mobbed at mill during the canvass. I have been mocked at the grave of my two babes, while strewing flowers upon their dust. The wives of republicans are urged to desert their husbands, and neglected by their sex in those moments of trial when the sympathies of woman are so essential. Republican women are ignored in the church, the sabbath-school, and the social circle.

Answer to interrogatory 7. The children of republicans are insulted and mobbed, banished from Sunday-schools and day-schools, and from all association with other children. They are bemeaned and ridiculed, and their fathers' radicalism thrown up to them in derision.

Answer to interrogatory 8. It was bad enough before Herndon's vist and speech here, but afterward the community seemed to be converted into a confederate war-camp. It seemed to be his design and delight to stir up bad blood, and but for the strong arm of the United States Government, radicals, men, women, and children, would be butchered in cold blood.

M. G. TUNSTALL.

Answer to cross interrogatories.

Answer to interrogatory 1. My opinion of slander is that it is the foulest whelp of sin. It is too dirty for any one to engage in but democrats. They roll it under their tongues as a sweet morsel. The slanderer is but little behind the man who is so heartless as to hang women.

Answer to interrogatory 2. I hold no office; I was not at the election; I took a deep interest in the election, because I love my country, and want lawlessness, and crime, and intimidation, and fraud suppressed. I desire to see restored and perpetuated a good Government and wholesome laws, for my own sake and my children's, and for all the people, and do not want to hear of any more women being hung. The republican party is my only hope for all this.

Answer to interrogatory 3. I was married to William Vaughan Tunstall on the 29th day of December, A. D. 1858. He has held the offices of judge, secretary of the reconstruction convention, postmaster in Palestine, clerk of the registration board of Anderson County, and president of the registration of Houston County, United States commissioner, clerk of the Freedmen's Bureau, clerk of the committee on privileges and elections in the State senate, and is now postmaster, president of the Union League, president of the board of school directors, president of the National Civil Rights Association, secretary of the republican executive committee for the first congressional district, superintendent of a colored Sabbath-school, and captain of a company of State Guards at Creswell, and a member of the State police. Before the war

but few honest men ever got an office in Texas, and good men seldom sought it.

Answer to interrogatory 4. My husband was a candidate for a seat in the reconstruction convention in this State; he was elected by some three hundred majority; but William H. Tucker, James W. Ewing, John D. C. Hunter, Robert E. McLure, and others, got one of the judges of election drunk, gave him a suit of clothes, a beef, and $7 50, if he would give them the ballot-box, which he did, and in one night they changed votes enough to elect the rebel candidates. At the two last elections he declined to be a candidate, preferring to make a disinterested canvass for the republican party. At the State election in 1869 he voted for Governor Davis. At the opening of the campaign he supported Hamilton, but finding that Hamilton's success would give the State over to the rebels, he changed his support to Davis.

Answer to interrogatory 5. I believe that Mrs. M. A. Dodd burned Shiloh at the instance of C. H. Davis, and that Davis was instigated by the man who hung two women in Arkansas. It was about sixty yards from Mrs. Dodd's, and about seventy yards from where a Mrs. Lee and her sister, Miss Mary Ann Hallmark, washed that day. Davis, Mrs. Dodd, Mrs. Lee, and Miss Hallmark left the country soon after this democratic conflagration. It was about three hundred yards from our house. The first sign of fire perceived by me was about four o'clock in the afternoon, a short time after the above-named ladies passed by it, going to Mrs. Lee's. I am certain some democrats burned it, as democrats are the only enemies of education in the country. Davis was teaching in the house at the time, and his school had dwindled down to less than ten scholars. This is the third Davis school-house which has burned down since the war. There were some fifteen democratic bonfires in this county last year. Politically, the proprietors of the building are Ku-Klux, and religiously they are hypocrites. I use strong language because I am on oath.

Answer to interrogatory 6. I am loyal to the United States Government, not because I love the South less, but because I love the whole country more. The South, with all her faults, I love her still. I often pray for the southern people: Father, forgive them; they know not what they do. As to Texas, she is just entering upon a proud career. She is a proud old radical State.

Answer to interrogatory 7. My husband has never been a candidate at but one election since the war, and then he was elected by the popular vote; but the democrats robbed the ballot-box, and he lost the victory.

Answer to interrogatory 8. With true Christian generosity and forbearance, I say to the democrats, as the Saviour said to the Jews, "Except ye repent, ye shall all likewise perish."

M. G. TUNSTALL.

THE STATE OF TEXAS, *Houston County:*

I, Leroy W. Cooper, judge third judicial district of the State of Texas, certify that Mrs. M. G. Tunstall this day came before me, and after she was duly sworn by me to answer truly to the interrogatories and cross-interrogatories hereto annexed, answers as follows the eight direct answers and eight cross-answers.

To certify to which, I hereunto set my hand and seal of the district court of Houston County, this the 22d of February, 1872.

[SEAL.] LEROY W. COOPER,

Judge Third Judicial District of the State.

THE STATE OF TEXAS, *Houston County:*

Be it remembered, that on the 20th day of January, A. D. 1872, George W. Whitmore is contestant for a seat in the House of Representatives of the Congress of the United States against the sitting member from the first congressional district of the State of Texas, to wit: William S. Herndon. I have caused A. T. Monroe to come before me as a witness for contestant, when the following questions were propounded and answered by him, to wit:

Interrogatory 1. Were you at an election held in the first congressional district on the 3d, 4th, 5th, and 6th days of October, 1871; and in what county and at what precinct?

Interrogatory 2. Was the full registered vote polled in the county in which you voted?

Interrogatory 3. Did you hear any of the speeches of contestee during the canvass; and were not those speeches of an inflammatory character? State the character of said speeches in full, if you can.

Interrogatory 4. Did not those speeches made by Herndon, and those who supported him, deter and intimidate many voters, and keep them from the polls; and were they not republicans who were intimidated and deterred from voting?

Interrogatory 5. What party supported contestee and what party supported contestant?

Interrogatory 6. What did contestee say about the amendments to the Federal Constitution, civil-rights bill, and the Ku-Klux bill, and all he did?

Interrogatory 7. What was the manner in which the contest was conducted between contestant and contestee; and were not the democrats greatly enraged against the supporters of contestant; and did not many of your friends remain away from the polls in consequence of the proscription and ostracism of the democracy, who would have cast their votes for contestant?

Interrogatory 8. Were there not democratic clubs organized throughout the district; and did they not keep and have a book in which they registered all the names of voters; and were not all who would not register as democrats proscribed and ostracised?

Interrogatory 9. Do you know of any person or persons, who were republicans, having been ordered or requested to leave the country, all voters for contestee; are the men who voted for contestee in the late election generally the men who aided in the late rebellion; and are not said voters now hostile to the Government of the United States; and would not such voters, if in their power, gladly destroy the said Government?

Interrogatory 10. How many men were deterred from voting the republican ticket in the four counties canvassed by yourself? State the manner in which contestee and his supporters urged his cause before the people.

Interrogatory 11. What is the registered vote of this county; how many votes were polled at the late election for congressman; did not men reasonably apprehend total ostracism in society, the destruction of their property, personal insults, and probable death, if they voted the republican ticket at said election?

Interrogatory 12. What counties did you visit during the canvass, and what were your means of information?

Interrogatory 13. Were any insults offered you as a canvasser, or any private injuries done to your person or property, pending said canvass?

Interrogatory 14. Were the men who were disfranchised by the fourteenth amendment of the Constitution of the United States permitted

to vote for members of Congress in the late election in this district; and did they not mostly vote for contestee?

THE STATE OF TEXAS, *Houston County:*

I, Leroy W. Cooper, judge third judicial district of the State of Texas, certify that A. T. Monroe came before me, and, after being duly sworn by me true answers to make to the foregoing direct and cross interrogatories in the contested-election case of G. W. Whitmore, contestant, and William S. Herndon, contestee, for a seat in the House of Representatives of the Congress of the United States, repeats and answers said direct interrogatories and cross-interrogatories as follows, to wit.

In witness whereof I have, this 16th day of January, 1872, signed and sealed the same.

[SEAL.] LEROY W. COOPER.
Judge Third Judicial District of Texas.

THE STATE OF TEXAS, *County of Houston:*

In the matter of the contested-election case of George W. Whitmore *vs.* W. S. Herndon, the sitting member from the first congressional district of the State of Texas, the undersigned attorneys and agents for W. S. Herndon, having been this the 20th day of January, A. D. 1872, at 12 o'clock m., served with copy of interrogatories propounded by Geo. W. Whitmore, contestant, to A. T. Monroe, and we having agreed to and signed terms of this date for taking testimony generally in this case, therefore we do expressly waive further service and all time of ten days, and herewith file our cross-interrogatories, and consent that the testimony of said witness may be taken without delay.

Cross-interrogatory 1. If you say, in answer to 1st direct interrogatory, that you were present at an election, the 3d, 4th, 5th, and 6th days of October, 1871, in Houston County, you will please state whether you were not a candidate for State senator in the district composed of Houston and Cherokee Counties, and if the candidates for congressional election and State election were not both voted for at the same time and places.

Cross-interrogatory 2. If, in answer to 2d direct interrogatory, you say the full registered vote of Houston County was not polled, then state the full registered vote of said county, when registered, and by whom; also, the full registered vote of the white population of said county, and the full registered vote of the colored population of said county, and state your means of information.

Cross-interrogatory 3. If you, in answer to direct interrogatory 3d, undertake to state the character of the speeches of W. S. Herndon, the present member in Congress from this district, during the late canvass just preceding the election, then state the particular speech referred to, when and where made; how many people were present, and the relative proportion of each party present on the said occasion; and whether his competitor, G. W. Whitmore, was present. Also, detail the speech as made, or so much thereof as may be inquired about, together with all explanatory remarks connected therewith. Also, state specifically any and every result of the same showing its disturbing and turbulent character. If you say it produced violence or breach of the peace, specify in what particular instance; give the date, name of parties concerned, and the place where it occurred. Has not the said speech assumed an offensive character simply because the said W. S. Herndon has received an overwhelming majority of the qualified voters of his district?

Cross-interrogatory 4. If, in answer to direct interrogatory 4, you say the speeches of W. S. Herndon or his supporters deterred republicans from voting, you will state what particular speech had this effect; who were the parties thus deterred and intimidated. Give their names and places of residence, their color, and the means you have for knowing that they remained from the polls because of such influences. How do you know what party they would have supported had they voted? Give the name of every man whom you know, or have good reason to believe, was intimidated and thereby prevented from voting; and if stated on belief, state fully the facts upon which that belief is produced. Name every man who exercised such an influence of intimidation, and state specifically what he did, and when did he do it; and where were you at the time.

Cross-interrogatory 5. If, in answer to 5th direct interrogatory, you undertake to state what party supported contestant, you will say, if the most intelligent, property-holding, tax-paying white men of the country were not his supporters. And if you undertake to state what party supported the contestant, you will state whether his main support was not the freedmen, or negroes; and state how many votes he received in Houston County, besides the negroes and the favorites of Governor Davis, who were in office or seeking office. State the number of white men in Houston County, who were not in office or seeking office, that supported the contestant.

Cross-interrogatory 6. If in answer to direct interrogatory 6 you know anything of "the amend," and the other remarks of contestee about Ku-Klux and civil rights bill, you will state when he said it; where did he say it; what else did he say; and give some names of the democratic or conservative party who was present and heard these statements, as well as yourself.

Cross-interrogatory 7. If in answer to direct interrogatory 7 you say that the people, or any portion of them, enraged against the supporters of contestant, and thereby caused his support to be less, you will state the facts; if you give your opinions, then state your reasons therefor. And can you specify any particular act of the people, or any portion of them, that in this respect impeded or jeopardized or imperiled the contestant in his canvass, or his friends in casting their votes for him? If so, give the name of the party or parties, and their residences, the dates of their occurrence, and the names of the parties thus intimidated, impeded, or imperiled. And if such things existed, then state whether you have ever done or said anything to enforce the Ku-Klux or enforcement bill against such offenders. If so, what have you said or done? If you have not said or done any such thing, then state why have you not reported such parties to the constituted authorities for prosecution and trial. Are not the laws, both State and Federal, enforced in Houston County without any hinderance or opposition? If otherwise, then state the particulars, and the causes and motives prompting the offenders.

Cross-interrogatory 8. If in answer to direct interrogatory 8 you say the democrats had organized clubs during said canvass, and if you think the same objectionable, then you will please explain wherein, on moral, social, or political grounds. And further, if they did not hold their meetings and transact their business in open daylight, and with free access granted to all men without reference to political affiliation. And you will further state if there be a secret political organization in this county; if so, what is it called, Ku-Klux or Loyal League? Did this secret party or organization support Herndon or Whitmore? Who composes said organization? What is the number of white men belong-

ing to said organization in this county, and how many of them hold office, and how many of them hold no office? How many colored men in such organization? Does not the State guard and police appointed by Governor Davis belong to such secret political organization, and are they not armed by Governor Davis with weapons furnished at the expense of the people of this State, or of the State?

Cross-interrogatory 9. If, in answer to direct interrogatory 9, you say you know of any person ordered to vote for W. S. Herndon or leave the county, state the name of the person so ordered to leave, the name of the person so ordering, when was this, where was it, who was present, and all about it; and you will further state your language to Joseph Beavers, at or near the place of voting while the election was going on. Did you not then and there tell Joseph Beavers that if he did not vote the republican ticket his hands or laborers would leave him, or that you would cause his hands to leave, or something of that purport? Please state what you did say. And did you not state, during said election, and at or near the voting place, or somewhere else, to Thomas Jones, who held a certificate as a teacher of a public school, that you would take his certificate, or cause his certificate to be taken from him, if he did not vote the republican ticket, or something to that effect? If so, state what you said. Also, if you should enter upon the metaphysical and psychological so far as to advance an opinion of the internal feelings and secret purposes of your political opponents yet unexpressed, you will please be kind enough to explain the process of reasoning that justifies such a conclusion. Give some facts to support such an opinion; and if you undertake to say that the former rebels were the supporters of W. S. Herndon. You will state, also, the antecedents of yourself and others of your party on the confederate question. Give the name of every white republican in your county who did not give voluntary support to the so-called confederate government; and state whether you held any office in the said confederate army; if so, what office.

Cross-interrogatory 10. If, in answer to direct interrogatory 10, you undertake to say how many were deterred from voting in four counties therein named, state the number and give their names, their post-office, and your means of knowing; be specific on this point. And if you say parties had reasonable apprehension of disturbances at the late election, and therefore refrained from voting, you will state if they were not mostly democrats. Was not the disturbances apprehended from Governor Davis's armed police? How many men were on duty in this county, with arms, and acting under the direction of Governor Davis? State whether there was a single democrat on that force. State whether there was a single democrat armed at the election; if so, state his name. Was not Governor Davis's police continuously on hand during said election, with guns and military accouterments, and exercising their authority? And did you ever before see such arbitrary and ungoverned power in the hands of such men over the polls at an election of a free people? If so, state the case, the election, the date, and where it occurred.

Cross-interrogatory 11. Was there any resistance to this authority? If so, state who resisted. When and where was resistance made? Did not one Géronie, a private on Governor Davis's police, exercise authority at said election and throughout the town, to order men away from the polls, and also to leave the town when they, too, were peaceable and in no wise violating a law of the land? Did he not order old and gray-headed men from the town? Did he not arrest William Allbright, whose age is upward of 70 years, because he did not get off on double-quick? Did he not threaten to arrest, or arrest, Burton Clark, whose age is 70

years or upward, for no other cause? Did he not arrest and manacle with handcuffs Van Clark, for no other offense than that he did not get out of town in a few minutes after voting; and for no other cause? Did he not order Porter, or P. J. Holly, or Albert Holly, to leave town, and make him go, when he was not violating any law? Did he not order a gray-headed man, by the name of Wright, to leave, or he would arrest him? Did he not arrest one very old and infirm man, by the name of G. G. Fuller, or Mr. Fuller, in the public road, because he took a seat in the road to rest? and did he not send this man Fuller, under arrest, to a magistrate? Did he not do other most outrageous acts, that were well calculated to disturb the peace and produce a riot?

Cross-interrogatory 12. How far was the voting, at said election, from the business portion of the town? Was any one disturbing the election by being in the business portion of the town?

Cross-interrogatory 13. If, in answer to interrogatory 13, you say insults were offered you, as a canvasser, or injury done your person, as a canvasser, state the time, place, and parties concerned.

Cross-interrogatory 14. If, in answer to direct interrogatory 14, you say any persons voted for Herndon, the contestee, who were disfranchised by the fourteenth amendment, you will state who they were, and also state if it is your understanding that the fourteenth amendment to the Constitution disfranchises any one. If yea, how, and from whom, do you get such information?

Cross-interrogatory 15. If you should state that the said election was unfair, and that you were a candidate thereat for State senator, state whether you were elected or defeated. If defeated, state whether you contested the said election. If not, then state why not. Did not General Davidson, the adjutant general of this State, pass through this county during the progress of the election? Did you then report to him any complaints about the election? If not, state the reason. Did not General Davidson pronounce the election in Cherokee fair? Did he have information to the contrary here?

Cross-interrogatory 16. How was the special police employed during and previous to the election? Were they not sent over the county, with guns, to bring in the negroes to vote? Did they not perform this as part of the duty assigned them? Did not they, or some of them, coerce negroes to come and vote who did not wish to vote? Did not they compel a freedman, known as William Hall, to come and vote, who did not wish to vote?

Cross-interrogatory 17. Did not two boys, formerly the slaves of Mrs. L. L. Hall, vote, who were not 21 years of age? Did not other colored boys, under 21 years, vote; and did they not for contestant? Did not the freedmen get the impression that all of a certain age, less than 21 years, could vote? If so, state how such impression was made on their minds. How many such voted in Houston County; and did they not vote for contestant?

Cross-interrogatory 18. Did not freedmen come from Trinity County and vote in Houston County? Did they, and every one of them, not vote for contestant?

Cross-interrogatory 19. How many democratic voters were deterred and intimidated from voting by the acts and conduct of the police?

Cross-interrogatory 20. Was not the arrangement at the voting-place, whereby white men and negroes were crowded through a narrow gate, and huddled together at the polls, done for the purpose of harassing and annoying white men, and, if possible, to prevent their voting? If

so, who had that arrangement made? If not, why was such an arrangement made?

Cross-interrogatory 21. Do you not know that the democratic voters, or the supporters of Herndon, were by the State police required at once to leave the polls, as soon as they had voted? and do you not know that many of them were pursued to the public square of the town, and ordered to leave, while the republicans, or many of them, were allowed to remain at the polls after voting, without molestation? Was not W. V. Tunstall, a republican, allowed to remain at the polls after he had voted, when such a privilege was not allowed or extended to any democrat?

W. A. STEWART,
D. A. NUNN,
For W. S. HERNDON.

Answers of A. T. Monroe, of Crockett, Houston County, Texas, to interrogatories propounded by George W. Whitmore, contestant, and cross-interrogatories of W. A. Herndon, contestee, for a seat in Congress from first congressional district of Texas:

Answer to interrogatory 1st. I was at Crockett, Houston County, Texas.

Answer to interrogatory 2. It lacked about four hundred of being the full registered vote, to the best of my recollection.

Answer to interrogatory 3. I heard Mr. Herndon's speeches, and I considered them intensely inflammatory, disloyal, and rebellious. He eulogized Lee, Stonewall Jackson, and the action of the rebel leaders generally. He denounced in the strongest terms the reconstruction laws, and all the recent amendments to the Constitution of the United States, from the thirteenth to the fifteenth, inclusive. Said they were forced upon us by Yankee bayonets, and contrary to the Constitution of the United States, and contrary to the wishes of the people. He advised the women not to speak to a radical, and wives to treat their radical husbands unkindly, and to "sweep them from their doors with the other trash," &c. He denounced President Grant as a tyrant, and Governor Davis "as a tyrant, usurper, and perjured villain." I have lived in Texas for many years, heard war speeches before and during the war, and never heard any more bitter, except that Mr. Herndon did not advise an appeal to arms. After Herndon spoke in Houston County, the feelings of the democrats became more bitter, and his words were quoted and his language, by the small-fry stump-speakers of the democratic party. I am not able to report in full the speeches of Herndon. I remembered the most of the denunciatory part. The balance of his speeches made no impression on my mind. They was made up of extracts from speeches of General B. F. Butler, in which that Congressman had criticised some acts of the republican party, and a letter or address of Senator Gaines, of the State senate, and a few stale anecdotes. It was an appeal to the passions and prejudices of the people. I spoke to Mr. Herndon at one time while he was speaking, to ask him a civil question, which I did in a polite manner, when he replied with an irrelevant question, which led the crowd to drown my reply by loud and insulting noises and words. The excitement was so great that I refrained from saying anything more at that time.

Reply to interrogatory 4. The speeches made by Herndon were calculated to deter peaceable men from going to the polls, if they were at all timid. He denounced the order of Governor Davis, and advised

the people to disregard it. The election order I refer to, which was based on the laws of Congress and of the State, in reference to the conduct of elections. I feel convinced that republicans were intimidated to a large extent all over the district. The contestant is a republican and the contestee is a democrat.

Answer to interrogatory 6. He denounced them all as unconstitutional, &c.

Answer to 7th. I am satisfied that many whites, for fear of social ostracism and disturbance at the polls, and colored persons for fear of the latter, remained away from the polls, who would have voted for Whitmore, the contestant.

Answer to 8th. There were organized democratic clubs, at which none but democrats were permitted to speak. They took down the names of all who were democrats, and those who refused to enroll their names were a mark for the democrats. I know men whose names were thus enrolled who said to me they were republicans, but consented to permit their names to go down on the democratic club books as democrats, for fear of being denounced as radicals; and I would here say, that the word radical is as offensive to the ears of the democrats as the word "Yankee" was formerly.

Answer to 9th. I know of one person who was requested to move from the county on account, as I believe, solely, for his political opinions. It is Judge W. V. Tunstall. He has been a preacher in the Methodist church, and is a gentleman of intelligence, and a man of honor. I know him well, and have known him intimately for many years. He belongs to a good family, and his wife is equally intelligent and as highly connected as himself. They are both Christians, and have been persecuted, vilified, and abused beyond measure, solely because of their having gone North, and taken the side of the national authorities in the late rebellion, and since have acted with the republican party. Their neighbors seem to entertain the opinion that it is infamous for persons who are natives of the southern or late slaveholding portion of the United States to be republicans. Judge Tunstall would have been obliged to remove or have been killed, in my opinion, but for fear of martial law. The large property-holders of the county, since the power of declaring martial law has been given to the governor, have exerted a salutary influence in keeping the lawless element in check. Besides, Judge Tunstall, finding that his enemies were growing more powerful and numerous every day, had wisely obtained a situation on the State police, which was an additional protection to him. He holds that place still, and I believe he would be in danger should he give up the place This abuse of Judge Tunstall was to teach others, as well as that gentleman and his family, the penalty of being a republican or "radical," as the democrats nick-name the republicans. Tunstall was publicly requested to leave, in a paper printed and published in Crockett by one David A. Munn, an enemy of the said Tunstall, whom Tunstall accused, through the public prints, of having hung Union men and women, peaceable citizens of Arkansas, while he (Munn) was a captain in the confederate service. A majority of Munn's company are citizens of Houston County, and are all democrats, of course, and no doubt voted for Herndon, if they voted, and it is pretty certain that they all voted, for I do not think that any democrat, or other enemy of the United States Government, has ever been intimidated so as to prevent him from voting. From the first agitation of secession to this day, the friends and not the enemies of the Government of the United States have been timid, lukewarm, and backward, silent, shy, and, to a great extent, cowardly, in

standing up for their rights and opinions. In other words, the war men, the secessionists, have been bold, active, and determined, while the friends of the Government have been the reverse, as a general rule. Where the exceptions occur, exile and imprisonment and death have been their lot, before, during, and since the war, with ostracism, abuse, and intimidation.

In answer to the latter part of this interrogatory, I should say that in my opinion, from a large, long, and extensive acquaintance with the men who voted for Herndon in this and the adjoining counties, that such was the case with the majority of them are still hostile to the United States, and that Mr. Herndon's speeches were well calculated to make them more so. They were the men, generally, who aided in the late rebellion.

Answer to question 10. During the canvass I was in Houston, Cherokee, Trinity, and Angelina Counties. I made speeches in the two former and took an active part in the two former, being myself a candidate for the State senate at said election for Houston and Cherokee. I should say that there were at least one thousand men in the four counties who were deterred from voting by the speeches and conduct of Herndon and his friends before the election. This is my opinion, and for giving it I expect to be denounced by a thousand lying democrats as a perjured villain; but "the world moves," and that is my opinion still.

Answer to question 11. About 2,500. I think some 1,800 votes were polled. Social ostracism, in association and in business, was more apprehended, with abuse, vituperation, &c., were the means used to carry the election. As men have been whipped and abused for voting the republican ticket, it was reasonable to suppose that such would be the case again, and no doubt many feared it, which kept them from voting it.

Answer to question 12. The counties visited by me have been aroused. I was a candidate and spoke many times. I made a republican speech in Trinity County to urge the people to send delegates to the republican convention at Rusk, and afterwards, while on official business in Trinity County, before the election, some men came at night and shaved my horse's tail, while I was sick at a friend's house. In Texas this act is considered the highest personal indignity, the man and the poor brute are both insulted and injured.

During the canvass in Cherokee County, I was only offered one insult, which was in language too vulgar to put in writing. This was done in the presence of ladies, but the party was old and infirm. It was while I was making a public speech. I would not have thought so much of it as I did had the conduct of the offender not seemed by this conduct to have given pleasure to the audience, which was nearly entirely democratic.

Answer to question 13. They were, and to a man, so far as I know and believe, voted for the contestee, (Herndon;) that is, all who were disabled from holding office by operation of the fourteenth amendment.

Answer to cross-interrogatory 1. I was a candidate, as asked, for senator from Houston and Cherokee Counties, and the candidates named were voted for, as asked.

Answer to cross-interrogatory 2. I have answered; the full registered vote of Houston County was about 2,500, to the best of my recollection—registered by proper officers since the war. The whites and colored about equal; but little difference in Houston County. My means of information are by official statements of officers.

Answer to cross-interrogatory 3. I refer to Mr. Herndon's speeches at Shiloh, near Creswell, in Houston, and Pennington, in Trinity County, just preceding the election, about the middle of the canvass. I do not remember the exact dates of these speeches. There were about eight hundred persons present at Shiloh, nineteen-twentieths of whom were democrats, and about the same number present at Pennington, about one-third of whom were republicans. I have detailed, without going too elaborately into very stale productions, all that I can call to mind of Mr. Herndon's speeches in my answer to direct interrogatory. Mr. Herndon was plain, and his speech needed no explanation. He made none, and denied no charge that Mr. Whitmore made. Mr. Whitmore, in both speeches, (I heard him deliver them before Mr. Herndon,) did so in Mr. Herndon's hearing, uncontradicted by him in any part, that, at the beginning of the canvass, Mr. Herndon had boasted of his "service in the confederate cause, and said that all he (Herndon) regretted was that he had not been ten feet taller and ten feet wider, and had not had a forty-horse power engine attached to him, to enable him to do more for the confederacy than he had done." I may not state the exact number of feet, but am sure about the number of the power of the engine. And after Mr. Herndon's speeches party feeling and ill will rose higher than I have ever known it or thought it possible to do, resulting in ostracism of every white person who took an active part in behalf of the republican party during the canvass. I do not say that any breaches of the peace resulted from this condition of the public mind, but believe they would have done so if we had had a weak-kneed governor of the State at the head of affairs. The property-holders are beginning to have a wholesome fear of martial law, for they feel that it touches the pocket nerve, from the experience that Governor Davis gave them in Walker and Limestone Counties, and they are at last compelled, in self-defense, to array themselves on the side of the law by activity and zeal. Heretofore they have remained apparently unconcerned spectators, while opposed to lawlessness and crime themselves as a mass. I heard as many comments made upon the character of Mr. Herndon's speeches before the election, if not more, than I have heard since, and I do not think that Mr. Herndon received a majority of the qualified votes of his district by any means. He has, perhaps, received a majority of the votes cast.

Answer to cross-interrogatory 4. Both of the speeches I heard; men, white men, whose names I cannot give, told me that the republicans were right, but that they were compelled to vote with the democratic party. That to vote the republican ticket would lead them into difficulties, and take away their means of living. Parties giving me such information, of course did so in confidence, and I do not betray confidence. I do not choose to make a target of my friends and confidants for Ku-Klux arrows to shoot at. I want republicans, and all others to know that I can be confided in. I will not betray a secret that may do wrong to good men, and perhaps imperil their lives. Mr. Herndon's speeches were the most effective to intimidate of any others. Many of his friends played second fiddle, repeating some of his offensive remarks, and indorsing them. I think Mr. Herndon, being a young man, did not perhaps know the full force of his speeches for evil, not that there was any truth or reason in them. They were forcibly vicious and denunciatory, a low appeal to the passions of a mob.

Answer to cross-interrogatory 5. The supporters of Herndon were generally the most intelligent of the whites; but there were men of as much intelligence, who supported Mr. Whitmore, as any who supported

Mr. Herndon, and were generally men of more firmness and decision of character, for it takes no ingredients of that kind to make a democrat. And it is well known, and not disputed, that the property-holders of the South, like the dog who crossed the stream with a piece of meat in his mouth, and let it go and lost it, while he jumped at its shadow in the water, were generally in favor of the rebellion, and are yet down with the same complaint. The supporters of Whitmore are the men generally who make the money for the tax-payers to pay their tax with, and are all republicans, and every one of them a loyal republican Union man; while every hater of the Government, every worshiper of the "lost cause," and every desperado within my knowledge, voted for Herndon. If the democratic party of Texas were purged of its rebels, they would be a skeleton, without flesh or blood, and not a body. I do not know how many whites voted the republican ticket, because I did not act as an officer of the election, and had no means of ascertaining; I look on the latter part of interrogatory number 5 as one that cannot be answered, and as irrelevant if not absurd in its character, and decline to attempt an answer to a question of that character.

Answer to cross-interrogatory 6. Mr. Herndon denounced all the recent amendments, as I have stated, in his speeches at Shiloh, in Houston County, and at Pennington, in Trinity County. He was especially severe on Congress, and there was not an act of that body, from 1860 to the date of Mr. Herndon's speech, that bore on the war and reconstruction questions, that he did not denounce in the most unmeasured terms. If I give names of particular persons who were present they may feel called upon to deny or dispute my statements. They may wish me to bring them into notice by bringing on a personal controversy. The men whom I particularly call to mind are fond of notoriety, and I do not choose to name them to help them on to such a position, and therefore decline to give their names. Five hundred democrats of Houston County heard all that Mr. Herndon said in his speeches, and they know that what I have answered about them is true. It would take too much space to put down all their names, and five hundred men are more than one if recollection were brought in question, but one solid fact against five hundred bad memories is too much for the five hundred that did not see the "man steal the cow."

Answer to cross-interrogatory 7. My opinion is based on my general knowledge of mankind and my special knowledge of the majority of the people of Houston, and a large number of the people of Cherokee, Trinity, and Angelina Counties, and a general knowledge of the people of this congressional district, and of their manner and conduct at the hustings and other gatherings generally; and in answer to that part of this interrogatory which asks me to give facts, I can only refer to the general demeanor of the democrats toward Mr. Whitmore and other republican candidates and their friends, heretofore given. I decline to give the names of any parties who made known their grievances and fears. They were given in confidence, and shall not be made public, for reasons heretofore given. I am not a general informant, or a public spy, or secret emissary, or a universal corrector of abuses, and try to attend to my own business, and therefore have not taken the Ku-Klux bill under my charge to enforce it. President Grant makes that law a specialty, and I have great confidence that he is equal to the occasion. I may be called before the grand jury, and will then, perhaps, be able to unfold a few tales. The causes and motives prompting the offenders were the "old song," hatred to the Government of the United States.

Answer to cross-interrogatory 8. I think the democratic clubs were

objectionable because they made a man declare his opinions, and if he came out and refused to join them he was immediately put down as a radical and abused accordingly and ostracised by his neighbors, which was in opposition to the true spirit of freedom of thought and action. I never knew one to meet in daylight, but knew one to meet at night. There is no secret political society within my knowledge called "Loyal League," but there is one, in my opinion, which extends over Texas, called the Ku-Klux. There is, within my knowledge, a secret political society known as the "Union League," in Texas, which inculcates obedience to law and devotion to the Union and Constitution, while the Ku-Klux is now generally admitted to be composed entirely of democrats, and is in opposition to law and the Government. The Ku-Klux, of course, supported Herndon, while all the members of the Union League that were not afraid to do so supported Whitmore. The democrats, of course, compose the Ku-Klux organization, because that organization is opposed to law and the Government, while republicans compose the Union League, for that organization upholds the Government of the United States. I suppose that about all the members of the democratic clubs belong to the Ku-Klux, for the democratic clubs is the Ku-Klux under another name, and about all the members are white, for we have some mean colored men, but none have sunk so low, within my knowledge, as to join a democratic club, and I never knew a crazy colored man. Only one or two, but they are all candidates, that I know of; not a colored man in the Ku-Klux, within my knowledge. None of the State guard or police belong to the Ku-Klux, that I know of. The Ku-Klux have been generally disarmed by action of the six-shooter law. The officers of the law bear arms, according to law.

Answer to cross-interrogatory 9. On the day of voting I jocularly remarked, in the presence of several gentlemen, to Mr. Joe Beavers, that I would "break up his farm," or "take away his laborers," or something of the sort, if he voted against me. Mr. Beavers appeared to take my meaning in the spirit it was intended, and afterwards told me he took it as a joke, and expressed surprise at any other construction being placed on it. I am very friendly to Mr. Beavers, have known him many years, and he is a man who is fond of jests and retorts, and I never met him without saying something to draw him out. No man who had a spoonful of brains, who knows me, would have taken me to be serious, and as all the persons who were present in the aggregate had that much, I am surprised that something serious is attempted to be made out of so small a trifle. I said to Mr. Thomas Jones, a school-teacher, who had often spoken to me in favor of the principles of the republican party, I met one day during the election, and had this conversation with: I said, "Mr. Jones, have you voted?" He replied he had. I remarked that I hoped "you gave our side a lift;" he replied, "No, I did not." I then said, "Mr. Jones, I am surprised at you. You are an Englishman; you were born in a free country; you can have no prejudices in favor of slavery; you never owned slaves; you, an old friend of mine, with all your training, and after all our long friendship, to vote against me. You are, sir, the only person in the State that I do think hard of; the back of my hand to you for life." I walked off and left the poor man trying to excuse himself. I am and was the supervisor of education for this district. I had examined Mr. Jones, and recommended him for a situation as a public school teacher, and had his commission at my house. The next morning he called for it, and I met him as of old, for I was sorry for the man. I said, "Mr. Jones, some men would not do this, but I will let you have your certificate;" for I could have withheld his certi-

ficate, and given other reasons for doing so, and he would never have known it. I gave him his certificate from the superintendent, Colonel Delgress, with the remark that "I was hurt and surprised at his not voting for me." He said then, "Monroe, the republican party is the party of progress, it is the party for the country. I indorse it, but I cannot vote for it yet. If I had voted for you I would not have had a child at my school next day. You would not want a man to vote the bread and meat out of wife and children's mouth?" These were his exact words. I told him that his very language showed he was not a freeman, &c. Mr. Jones, I fear, has pretended to divulge what passed, and as I am asked the direct questions, I feel bound to state what actually took place between us in reference to the whole circumstance, and have done so. I do not know how to reply to the psychological and metaphysical part of this interrogatory; it is too deep for me, and I do not suppose the interrogator supposed that I would answer it. I do not know what a man's antecedents have to do with his present *status*. I was an officer in the late confederate army, but the confederacy did not have the power to control my judgment, to warp my conscience, or to rule my mind. I was once a soldier in the Texas army, but when Texas was annexed I was no longer a Texan soldier, and when my country could not protect me I had a right to take care of myself. Do the interrogators propose to taunt me for having thrown off my allegiance to a government which they failed to sustain, and which in fact, according to my view, and the laws of nations, went to war for the perpetuation and extension of human slavery, and never had any legal existence? I give the names of a number of republicans, in Houston County, who did not give voluntary support to the confederate government, according to my opinion; among them are W. V. Tunstall, Leroy W. Cooper, James Platt, John Blair, R. J. Blair, E. B. Dwyer, C. D. Skidmore, A. T. Monroe, Joseph Geraux, C. B. Kell, Oscar Kell, John H. Ramsdale, J. Texas Smith, (a nephew of Judge L. W. Cooper—Unionism runs in this family,) S. J. Stonly and his three grown sons, Thomas J. Lewis, William Lewis, Patrick H. Burns, Turner Skidmore, Samuel M. Thompson, N. O. Thompson, C. G. Oliver and son, C. D. Head, O. D. Head, James Whitley, John Kirkpatrick and three brothers, and William M. Waddell; many others, living and dead—some of the latter conscripted and died fighting against their country contrary to their convictions, and we live republicans deem it a duty that we owe to the sacred dead, now in peace, to resist the spirit of coercion, contrary to our convictions of right, which pervades the rebel minds of our democratic countrymen.

I can hardly believe that one single democrat was prevented from voting by fear, for I must do that party the justice to admit that it has been always fearless in pursuing its course, both in council and on the battle-field. It possesses the brute instinct of courage, for what has it to fear from a mild, humane, and generous Government, in the hands of a noble party of countrymen, who have "malice towards none and charity for all." The police are conservators of the peace, and are created, organized, and equipped for the preservation of the peace, and none but criminals need have any fears or apprehensions in regard to their conduct. There were two State and about eighteen special policemen on duty during and some days before the election. There was no democrat on the police force. This body has been so much abused by the democracy that it is very difficult to procure efficient republicans to go upon it. A democrat dare not become an officer on this force in this section. The democratic clubs would prevail against him. No democrat was known to be armed at this election. The six-shooter law,

or the law preventing the carrying of deadly weapons, disarmed the democrats, who very generally carried these weapons till since the passage of this law, against which they all voted in the legislature. I did not know that Governor Davis had any police. The State police were on hand in sufficient force to restrain the turbulent democracy and preserve the peace, notwithstanding their threats to set aside the election order of Governor Davis, and "camp at the polls." But for the prompt action of Governor Davis, through this police force, there would, in my opinion, have been serious disturbances generally at the polls, and nothing like as fair an election held anywhere in the State as was held. All the elections in the South that I have read of or heard of were carried by fraud, force, or intimidation. This I am satisfied of, though I did not see them or any of them. But there are things we can know, humanly speaking, without being present. I refer to the elections for secession. If there were power exercised at the polls it was exercised by the officers of the law in favor of peace, and for the preservation of the rights of all. If officers violate the law there is a mode of redress. If a mob violates law there is no way of meting out punishment, for they furnish the jury and will not convict each other. If I were a democrat I might think there was arbitrary power exerted at the polls, and perhaps there was rather too great an exhibition of authority, but it was made in the interest of law and order, and if powers were transcended there is a remedy. I do not think there was any to a damaging extent, certainly none to prevent a fair ballot, but if at all it was to secure it.

Answer to cross-interrogatory 11. There was no forced resistance to the officers of the law. I was informed that Mr. Giraux, the police officer in command, did arrest some parties, Wm. Albright, Mr. Fuller, and Mr. Clark, for disobeying the governor's election order, but they were released by the magistrate and never tried. I was informed that Mr. Clark was handcuffed for a short time, because there was no jail to confine him in. He afterward, as I am informed, struck and knocked down with a stick or club officer Giraux, who ordered his arrest, and is now on bail for his appearance at court to answer the charge. If officer Giraux did any act that was calculated to disturb the peace I am not aware of it.

Answer to cross-interrogatory 12. All the business portion of the town had been burned a few days before the election, and there was only one store in town and it was about half a mile from the polls. If all persons had been permitted to remain in town there might have been disturbances that would have interfered with the election, and hence, to prevent this contingency, the police officers ordered all persons home immediately after they had voted, according to the election order of Governor Davis.

Answer to cross-interrogatory 13. Deep and manifold insults were offered to me during the canvass, but as I am not a party in this contest I decline to enter into particulars further than I have already done in previous answers, deeming it entirely unnecessary to do so so far as this contest is concerned.

Answer to cross-interrogatory 14. It is not my understanding that the fourteenth amendment disfranchises any one. I understand it only to go so far as to disable parties from holding office who held office before the war. I do not understand it to interfere with voting. I go to the fountain-head for pure water. I get my information from first hands—from the instrument itself.

Answer to cross-interrogatory 15. I do not understand this contest to

be made on actual outrage and violence committed at the polls, but nearly entirely on the disloyal, treasonable, and inflammatory speeches of Mr. Herndon and his friends during the canvass. If such men as Mr. Herndon, we think, can secure seats in the law-making body of the nation, by inflammatory appeals and incendiary abuse of all the most cherished principles of our Government and the organic law of the nation, it gives aid and comfort to the enemies of the Government, and portends a dark future for us and our children. In no government on earth would so vile an enemy be allowed to sit in council or in judgment as Mr. Herndon is to the Government of the United States. I was a candidate and defeated, but my opponent used no such language as Mr. Herndon did, and the most that he did use that was offensive he borrowed from Mr. Herndon. I did not choose to contest the seat of my opponent, and suppose that reason is satisfactory.

Answer to cross-interrogatory 16. The special police was employed wholly in preserving order at the polls. In some instances, they being colored men, some of them, they were permitted to ride out to assure their friends, neighbors, and brethren that they should have protection if they came to the polls to vote, for there was not only an effort to discourage and intimidate the colored people, but also to deceive them as to the time of holding the election; none of the colored men needed coercion, for all were anxious to vote; none that I ever heard of, and do not believe that William Hall, or any other colored man, or republican, was compelled to vote against his wishes.

Answer to cross-interrogatory 17. None voted under twenty-one years of age to my knowledge; I am certain that the registration officers would not and did not favor such a democratic mode of proceeding, for they were all republicans. I never before heard that the colored people ever had such an impression, that persons under twenty-one years old could vote, and think that to be manufactured out of the whole cloth.

Answer to cross-interrogatory 18. If colored persons voted from Trinity County I do not know of it; but if they did, Trinity County is in this congressional district, and they had the right to vote for member of Congress.

Answer to cross-interrogatory 19. I do not think that one democratic voter was deterred or intimidated by the acts and conduct of the police, or any other party or cause.

Answer to cross-interrogatory 20. Nothing was done to annoy white men in any way, but "equal rights" were extended to all men, both white and black, except that preferences were shown to some old and infirm white men and one or two crippled men, to allow them to pass safely through the crowd, and to expedite their voting. Every method was used by the police to extend every facility toward securing a quick, fair, and safe ballot. The fact that nothing was done to annoy anybody, I answer that "no arrangement" was made to annoy anybody. You say, if not made to harass, why was it made? All the arrangements made were made on the square, to give "equal rights" at the ballot-box, as they should exist everywhere.

Answer to cross-interrogatory 21. The chairman of the democratic State executive committee, in a published document, advised the democrats "to go to the polls and camp there." This called forth a proclamation from the governor forbidding such massing of men, and ordering the police to see that his proclamation was enforced. Police officer Giraux enforced it to the letter in Houston County, and ordered all men alike, without regard to age, color, or opinion, to obey the order and return to their homes immediately after casting their ballot. W. V.

Tunstall was a police officer, and was on duty at the polls while there, the last day of the election only, and was then in company with General Davidson, on his way from Cherokee County for his home at Creswell, in Houston County.

A. T. MONROE.

CROCKETT, HOUSTON COUNTY, TEXAS,
January 21, 1872.

Additional papers in the case of Whitmore vs. *Herndon, in the first district of Texas.—March* 15, 1872. *Referred to the Committee on Elections and ordered to be printed.*

THE STATE OF TEXAS, *Houston County:*

Be it remembered, that on the —— day of ——, A. D. 1872, in the case whereof George W. Whitmore is contestant, and William S. Herndon is contestee, the following interrogatories are to be propounded to and answers received from William M. Waddell, a citizen of Houston County, Texas:

Interrogatory 1. Were you at an election held in the first congressional district, on the 3d, 4th, 5th, and 6th of October, A. D. 1871, and in what county and precinct?

Interrogatory 2. Was the full registered vote of Houston County, and the registered vote of the counties which you were in during the canvass, polled at said election?

Interrogatory 3. Did you hear any of the speeches of contestee during the canvass, and were they of an inflammatory character against the Government of the United States, against the administration of President Grant, against the State administration, and members of the republican party?

Interrogatory 4. Did the speeches made by Herndon and his supporters deter, intimidate, and prevent many persons from coming to the polls, and had they been at the polls would they not have voted for contestant?

Interrogatory 5. What class of men and what party supported contestee?

Interrogatory 6. Did you ever hear contestee in his speeches speak of the late amendments to the Constitution of the United States? If yea, what did he say?

Interrogatory 7. What did he say about the civil-rights bill, the Ku-Klux bill, and any other acts of the Congress of the United States?

Interrogatory 8. What was the manner in which the canvass was conducted between contestee and contestant as to spirit?

Interrogatory 9. Were not the democracy greatly enraged against the supporters of contestant, and were not many deterred from the polls, from fear of proscription, ostracisms, and insults, and had they come would they have cast their votes for contestant?

Interrogatory 10. Were there not democratic clubs organized through the district; did they have a book in which they kept the names of all the voters, and those who would not register as democrats were totally ostracised and cut off from society, and deprived of all business relations?

Interrogatory 11. Do you know of any persons who are republicans who have been ordered or asked to leave the county, and in what way?

Interrogatory 12. Did not men fear total ostracism in society, the

destruction of their property, personal insults and even death itself, if they voted the republican ticket at said election?

Interrogatory 13. What counties were you in during the canvass for congressmen at the late election, and what were your means of information in regard to the feeling and conduct of the supporters of contestee?

Interrogatory 14. What is the general feeling in the counties you have visited toward the Federal and State governments, and toward President Grant and Governor Davis and their administrations?

Interrogatory 15. Were you insulted during the canvass on account of your political opinions.

Interrogatory 16. Were the men who were disfranchised by the fourteenth amendment of the Constitution of the United States permitted to vote for members of Congress in the late election in this district, and did they not almost universally vote for contestee Herndon, and about how many of such votes were cast in said election?

Interrogatory 17. Were the men who voted for contestee in the late election the same who aided in the late rebellion; and are not said voters yet hostile to the United States Government, and would not said voters if they had it in their power destroy the said Government?

Interrogatory 18. How many men were deterred from voting, in the late election, in the several counties you have visited—who would have voted the republican ticket and for contestant—by the manner in which contestee and his supporters argued his cause before the people?

Interrogatory 19. Do the republicans of the first congressional district of Texas regard Judge W. V. Tunstall as a reliable gentleman?

WM. V. TUNSTALL,
H. W. MOORE,
Attorneys at Law for Contestant.

THE STATE OF TEXAS, *Houston County:*

I, Leroy W. Cooper, judge of the third judicial district of the State of Texas, certify that Wm. M. Waddell this day appeared before me, and after being by me duly sworn, true answers to make to the annexed direct and cross interrogations, did answer as follows, to wit:

In witness, my hand and seal of the district clerk's office of Houston County.

[SEAL.] LEROY W. COOPER.
Judge of the Third Judicial District of Texas.

Answers of W. M. Waddell to direct interrogatories:

Answer to interrogatory 1. I was not at the election held on the 3d, 4th, 5th, and 6th, 1871, in first congressional district.

Answer to interrogatory 2. The full registered vote of Houston and of the counties visited by me were not polled at said election.

Answer to interrogatory 3. I heard contestee speak during the canvass. I considered them inflammatory, as he denounced and abused the national and State administrations and the republican party.

Answer to interrogatory 4. The speeches made by Mr. Herndon and his supporters, I am satisfied, deterred and prevented many persons from coming to the polls and voting who would have voted for contestant.

Answer to interrogatory 5. Contestee was supported by those who aided in the recent effort to destroy the Union, called here democrats, but properly rebels.

Answer to interrogatory 6. Contestee spoke of the late amendments to the United States Constitution as begotten by force and fraud, and disgraceful to the party passing them.

Answer to interrogatory 7. He objected to the civil-rights bill, said the Ku-Klux bill was an outrage on the Southern people, and in a general way opposed all measures passed by Congress.

Answer to interrogatory 8. From the best information given me contestee bull-raged and, I learn, committed assaults on contestant.

Answer to interrogatory 9. It has been the constant practice of the democratic party in Texas since the war, in the election, and they have resorted to every means to do so; they have by publication in their journals slandered and abused not only the males, but the wives and other female members of the republican party. They have ostracised families of republicans; have attempted, and in some cases permitted, the courts of justice to persecute republicans. This, of course, has deterred men from acting as they would like, if such did not exist. I have heard white men say they believed in the principles of the republican party, but were afraid to vote for their candidates. It requires a man of nerve to be a republican in this county, and it is hoped the President and Congress will give us more protection.

Answer to interrogatory 10. Democratic clubs existed over all the State, and I have learned they had a book in which all were asked to register, and those who did not were threatened with dismissal from employment. No republican can succeed in mercantile business here. I speak from sad experience.

Answer to interrogatory 11. Hon. M. W. Wheeler and others, republicans of Shelby County, were notified by letter that their days were numbered. J. J. Fain, of Carthage, found a notice posted on his gate, with a coffin drawn on it, and notified that he had better hunt a more congenial clime. Judge W. V. Tunstall and family, of this county, received a request, published in a newspaper in this place, signed by many, to get away.

Answer to interrogatory 12. In answer to this interrogatory, I can give only my opinion, based on what I have heard. I would answer all the questions of the twelfth interrogatory in the affirmative.

Answer to interrogatory 13. I was in Cherokee, Nacogdoches, Rusk, Panola, Shelby, San Augustine, Sabine, and Houston. I was one of the supervisors of the public free schools in this State, and considered my means of getting a fair tone of the feeling good.

Answer to interrogatory 14. The feeling is different; the republicans love and cherish and support the Union, the national and State government; the democracy hate, abuse, curse, and would destroy it if in their power. This I have heard from the lips of one of their leading men, who lives in San Augustine County.

Answer to interrogatory 15. I was insulted, if it can so be taken; but we republicans have to bear it so often that it is almost natural to expect it. On a certain occasion I was driven out of a store in Shelby County, town of Center, by a man who calls himself Golstone, and on account of my political opinion.

Answer to interrogatory 16. Every one voted who wanted to vote the democratic ticket, fourteenth amendment and all. Rebel, Ku-Klux, and any and all of these voted, or mostly, for contestee. I would say about five thousand or more in the district.

Answer to interrogatory 17. The large majority of the votes cast for contestee were of those who aided in the rebellion, and are yet hostile to the Government, if words and actions mean anything. They would

destroy the Union if General Grant would be like Mr. Buchanan was—permit it.

Answer to interrogatory 18. I can answer this only from information from others. I would say two thousand votes, perhaps more.

Answer to interrogatory 19. Judge W. V. Tunstall is regarded by all republicans of this district as being a man of sterling integrity, and a Christian gentleman.

First congressional district of Texas.

STATE OF TEXAS, *Houston County:*

In the matter of contest between G. W. Whitmore, contestant, against W. S. Herndon, contestee, for seat in the United States Congress from said first district of Texas, contestee, by his attorney, propounds the following cross-interrogatories to William M. Waddell, witness for contestant Whitmore, and asks that the same may be answered by said witness Waddell:

Cross-interrogatory 1. If, in answer to direct interrogatories, you state that the full registered vote of Houston County, and the counties in which you were during the election, were not polled at the election, please state how you know that fact? And do you not know that many of the democrats who would have voted for W. S. Herndon at said election staid away from the polls, and did not vote? Do you not know that many of the democrats staid away from the polls because they were apprehensive of personal violence from Governor Davis's order to have the polls guarded by the police during said election? Did not the police act in a very insolent and arbitrary manner toward the democratic voters at said election? Were not said police force, or a great majority of them, the supporters of Mr. Whitmore at said election?

Cross-interrogatory 2. If you say that you were present and heard any of the speeches of Mr. Herndon during the canvass, can you say, upon your oath, that his speeches were more inflammatory than such speeches usually are in a canvass of such importance; and do you not know that Mr. Herndon said nothing against the Government of the United States, as such, but only denounced the corruption practiced in its administration by the party in power?

Cross-interrogatory 3. Do you not know that Mr. Herndon in his speeches advised the people to be obedient to the law, and to submit to the lawful authorities of the Government? And do you not know that the supporters of Mr. Herndon in Houston County are a law-abiding people, and desire peace and quiet?

Cross-interrogatory 4. Do you regard it as a crime to show the corruption of the public officers of the Government? Do you not think the people ought to know what their public officers are doing; and if there is anything wrong in the administration, that the people ought to know it, that it might be corrected? And do you think that honest officials would object to have all their acts published to the world? Or do you believe in the alien and sedition laws, and that the mouths of the people ought to be gagged?

Cross-interrogatory 5. Please name any voters who were kept from the polls, that would have voted for Mr. Whitmore. State their number and place of residence. What language did Mr. Herndon use that deterred voters from the polls? State such language, as nearly as you can remember the same. State the precise language used by Herndon.

Cross-interrogatory 6. Do you think it wrong to discuss the policy of

the laws of the Government; and if any acts of the Government should be regarded as impolitic and injurious to the interests of the people, is it wrong to endeavor to induce the people, through their legal representatives, to alter the same? Or do you think a bad law or enactment should remain forever, as the laws of the Medes and Persians?

Cross-interrogatory 7. If you say anything as to how the canvass was conducted, do you not know that Mr. Whitmore, in the darkness of night, was accustomed to meet large numbers of the colored voters of the district in secret meetings, and there impose upon their ignorance by making them believe it would be a crime to vote for Mr. Herndon, and that it was the intention of the democratic party to put them back into slavery in case it got possession of the Government? Have the republican party not got organizations composed principally of the colored people, which met principally in secret, under the cover of night, which they call Loyal Leagues, and in which the ignorant colored folks were instructed all to vote for Mr. Whitmore? And do you not know that Mr. Whitmore got his principal support from this class of people? Does the Loyal League keep books?

Cross-interrogatory 8. What do you mean by republicans being ostracised? Have not the people of a free country a right to select their associates? Are not most all of the officers in Houston County republicans; and are they not respected and supported by the democrats in the discharge of the duties of their offices? Ostracism is spoken of; what power have the democrats to banish anybody? Are the republicans not in power in this State and county?

Cross-interrogatory 9. If in answer to tenth interrogatory you answer in affirmative, please state what person and his name, and how was he deprived of business relations. Please state if in a free country people have not a right to choose their associates. Was not such exclusion or ostracism, as you would call it, occasioned by disreputable and immoral characters—on the part of such people—rather than for political opinion?

Cross-interrogatory 10. If you answer interrogatory 11 in the affirmative, state the name or names, and place or places of residence of such person or persons. State all you know about the circumstances under which such order or request was made. Was such order or request published in any newspaper; if so, what newspaper? Was such order or request accompanied with any threat? Was not such communication a suggestion that the party would promote quiet and good feeling in the community in which he lived by leaving it, rather than an order to leave? Did such parties find it necessary to leave? Did not such party act in a very obnoxious way toward his neighbors? Was not such person charged by his neighbors with burning the Shiloh church?

Cross-interrogatory 11. If in answer to the twelfth direct interrogatory you say yea, please state what persons, where they live, and how threatened, and by whom threatened. Were not the ignorant freedmen, or black men, of your county threatened with personal violence should they vote for Herndon in said election? What was the means of intimidation in the hands of the democrats, or Herndon's supporters? Were not the election polls guarded by Davis's armed police? And as to "social ostracism," did not the republicans, both white and colored, practice most bitterly upon all of those who voted the democratic ticket?

Cross-interrogatory 12. In direct interrogatory 14 you were asked what was the general feeling toward the general and State governments? In this connection please state if you do not believe that the supporters

of Herndon are willing to give both of said governments zealous support in return for protection in their rights as citizens.

Cross-interrogatory 13. If you state that you were insulted during said election, please state by whom, the place, and time.

Cross-interrogatory 14. If in answer to interrogatory 16 of direct examination you say yea, please let us have a list of such disfranchised persons, their residence, and profession or business.

Cross-interrogatory 15. If you say yea to direct interrogatory 17, please state if not all or nearly all of the white supporters of Whitmore are also "the same who aided in the late rebellion." Which of the two classes of aiders in the late rebellion present the more honorable record as soldiers? If you answer the question in direct interrogatory 17, whether the men who voted for Herndon are not hostile to the United States Government, and would destroy it if it were in their power, in the affirmative, state your grounds for making such assertion.

Cross-interrogatory 16. If you make an estimate of the number of men who were deterred from voting the republican ticket in the late election, by the manner in which the canvass was conducted by contestee and his supporters, state their names and places of residence. Also, state how you arrive at your information. State, if you know, how many men were deterred from voting for Herndon by fear of violence or insult from the armed police of the governor.

Cross-interrogatory 17. If you answer direct interrogatory 19 in the affirmative, is the person alluded to regarded as a "reliable gentleman" by *all* the republicans in the first congressional district? How is he regarded by the balance of mankind?

Answer to cross-interrogatory 1. By figures, the registered vote being much larger than the vote polled; early done. I learn one or two, who were called democrats, did not vote, and if they had been at the polls perhaps would have voted for Mr. Herndon, but there were few. Judging from the past they are not much afraid of violence from republicans, and only fear Governor Davis's laws, because they know he means what he says. From what I can learn from responsible authority the police did only their duty as a general thing. The police consisted mostly of the special police; in some counties they were composed of democrats, in some of republicans; in other counties mixed, some republicans and democrats.

Answer to cross-interrogatory 2. I have considered myself on oath and speak accordingly. I heard Mr. Herndon's speeches, and my answer to this is given in the direct answers. A spirit or feeling has existed with all the democrats since the war, in the South, to abuse the Government and administration; the Congress is called a rump Congress; the President slanderous names; governors and officers of the republican party all kinds of bad names.

Answer to cross-interrogatory 3. He said but little about obedience to the laws; he ridiculed the acts passed by the legislature, especially the school law; the records of the county is the best evidence; I refer you to them.

Answer to cross-interrogatory 4. I do not regard it a crime to show the corruptions of any one, but I regard it a crime to vent all the venom on a man, call him corrupt, because he differs with others in political affairs; which is the case too frequently. The faults of an administration can be corrected, but not by slander. I do not believe in the alien and sedition laws; I believe that the people have a right to their opinions; I believe that a man has a right to be a Jew or Gentile, a republican or democrat, and he should not be gagged; but, unfortunately, my democratic friends don't hold to such; (this is on oath.)

Answer to cross-interrogatory 5. Should I give the names of any person he would be liable to persecution; therefore I decline giving them. He called white men, who supported the republican party, negro-worshippers, &c., language that would influence timid men from the polls.

Answer to cross-interrogatory 6. I do not think it wrong to discuss the policy of parties, or government, or any laws, but my democratic friends won't discuss; their argument is abuse; (this is on oath.) (The war is over, the cause is lost, and I am of the opinion it was a bad job for the South.) This answer is given in direct answer, and it is an old adage, "Actions speak for themselves." They have opposed every bill presented by the Congress of the United States that has a tendency to prevent another rebellion.

Answer to cross-interrogatory 7. Colonel Whitmore was a member of the Union League, of Americus, and no doubt met many a voter in the hour of night, as meeting in the day was considered dangerous; if he inculcated the teachings of the League, he instilled only patriotism, and a love of country which George Washington fought for and handed down to us. It is the prevailing opinion with not only black republicans, but from the stand-point of the democracy, to re-establish slavery, and forever perpetuate it. In the South the colored vote is republican, who know to that party they are indebted for the rights of freemen; that the republican party is the only party that protects them in their rights, and, if not prevented and frightened, in all cases would vote the republican ticket. Whitmore received a larger vote from the colored people. The Loyal League keep books.

Answer to cross-interrogatory 8. I mean that white men who had become active, or claim to be, republicans, are cut off from society—their families, and a complete banishment of social feeling or intercourse with republican families. This was not the case before the war. Certainly every one has a right to select their own society. All the officers of Houston County are republicans. I cannot say if they are respected by all democrats or not. My opinion would say to the contrary, as they are called damned radicals by their democratic friends. I am happy to say the democrats have no power at the present time, and hope never will have; if they do, look out, republicans, for banishment in Texas.

Answer to cross-interrogatory 9. General A. T. Monroe, John H. Morrison, and myself, who have attempted to merchandise, and not a dollar was thrown in our way, but, on the contrary, every obstacle was thrown in the way, and we have been compelled to stop. Ostracism was not the occasion of dissipation, or immoral character, as that exists too much on the side of opponents. I do not know of a drunken white republican, or an immoral one, and this ostracism exists only on account of political affairs; it is taught to the little children; I was compelled to stop my son from school in consequence of it.

Answer to cross-interrogatory 10. I have answered that in my direct. The person you have reference to is Hon. W. V. Tunstall; he did not until he was first attacked; he was not accused of burning the school-house at Shiloh, but Mrs. Tunstall was by those who hated her; she at once demanded an investigation; during the inquiry, which was conducted by Justice Keel, she was not only honorably acquitted, but suspicion fell on those who accused her, and the impression is it was done by those who sought it as a means to destroy Tunstall and family.

Answer to cross-interrogatory 11. I have given the answer in direct answer to interrogatory 12. I never heard of a republican in my life intimidating a voter.

Answer to cross-interrogatory 12. If the opposition to Mr. Herndon and his supporters to the State and national administration is called a support, deliver me from such an one; they have the protection of all other citizens, and appeal to the courts of the county for it.

Answer to cross-interrogatory 13. I have stated in my direct answer.

Answer to cross-interrogatory 14. I would be compelled to go over too much country, and have not the time or money to spare to furnish or pay for the summer, to get the information you desire; they exist in every county in the State.

Answer to cross-interrogatory 15. The supporters of Herndon were those who supported the rebellion, and mostly white. Whitmore received the support of some who aided the rebellion, but at the surrender accepted the issue, and have shown by their actions that they are sincere. A soldier's record should cease with the war, when it was against the Government of which he served.

Answer to cross-interrogatory 16. You have asked this before, knowing full well it could not be done; if the Ku-Klux committee were to visit us they could perhaps get them; I suppose the number to be at least two thousand votes.

Answer to cross-interrogatory 17. If there are any republicans in this district who do not regard Judge Tunstall as an honorable man I do not know it. The democracy have accused him of all crimes known to the criminal calendar. I cannot say, but expect they might be classed as the balance of mankind.

W. M. WADDELL.

G. W. WHITMORE *vs.* W. S. HERNDON. } Contested election, United States House of Representatives. First district of Texas.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Be it remembered that, at an examination of witnesses begun and held on the 26th day of December, A. D. 1871, and concluded on the 27th day of January, A. D. 1872, the within depositions were taken in pursuance of the notice hereto annexed. And at said examination did personally appear James W. Flanagan and Edmund J. Davis at the office of H. E. Paine, esq., No. 412 Fifth street, in the City of Washington, in said District, to testify on the part and behalf of G. W. Whitmore, in a certain contested-election case now depending in the House of Representatives of the United States, wherein the said G. W. Whitmore is the contestant and W. S. Herndon is the sitting member.

James W. Flanagan, of the State of Texas, but temporarily in the District of Columbia, a witness of lawful age, being produced, was sworn on behalf of the contestant.

Examination of witnesses adjourned to Wednesday, the 27th day of December, A. D. 1871.

I. L. JOHNSON,
United States Commissioner.

WEDNESDAY, *December* 27, *A. D.* 1871.

Met pursuant to adjournment, and examination of witnesses adjourned to Thursday, December 28, A. D. 1871.

I. L. JOHNSON,
United States Commissioner.

THURSDAY, *December* 28, 1871.

Met pursuant to adjournment, and, by agreement, further examination of witnesses adjourned to Tuesday, January 2, A. D. 1872.

I. L. JOHNSON,
United States Commissioner.

TUESDAY, *January* 2, *A. D.* 1872.

Met pursuant to adjournment, and further examination of witnesses was then adjourned, from day to day, until Saturday, January 27, A. D. 1872.

I. L. JOHNSON,
United States Commissioner.

SATURDAY, *January* 27, *A. D.* 1872.

Met pursuant to adjournment, when Edmund J. Davis, resident of the State of Texas, but temporarily in the District of Columbia, a witness of lawful age, being produced, sworn, and examined on behalf of the contestant, in answer to the following questions, on oath, says as follows:

Question 1. What is your name, and where is your present place of residence?—Answer. My name is Edmund J. Davis; reside at Austin, in the State of Texas.

Question 2. What official position do you hold in Texas?—Answer. I am governor of the State.

Question 3. Were you governor at the time of the congressional election in October, 1871?—Answer. I was.

Question 4. Have you any knowledge of the condition of affairs in the first congressional district in Texas at the time of that election which enables you to state whether the election was free and fair? If so, state your means of information, and the facts of the case.—Answer. I have no personal knowledge, not having been in the district immediately before or after the election. My knowledge is based upon reports made to me, either upon letters, affidavits, or verbally.

(The sitting member, W. S. Herndon, objects to hearsay testimony, founded upon letters, reports, or affidavits of third persons.)

Witness continues:

Question 5. Please state your knowledge of the condition of things in the first district of Texas at the time of the election held in October, 1871, obtained in the manner already indicated, subject to the objection of the sitting member.—Answer. It was to the effect that the colored voters were threatened with loss of employment if they did not vote the democratic ticket, sometimes with personal violence; also democratic orators—for instance Hon. John H. Ragan, late postmaster general of the confederate States—in canvassing, which I understand he did, a large part of the district, advised the social ostracism of those who should vote the republican ticket among the whites. This same gentleman advised his friends to disobey the election orders issued by the governor for the purpose of enforcing the election law, and for maintaining peace and order at the polls. A number of instances have been reported to me that colored and white persons have been compelled to abstain from registering or voting through fear and personal violence. In one county, Rusk, where there was previous to that election a large republican majority, the present United States Senator, Senator Flanagan, reported to me that a number of colored people desiring to march into the town of Henderson with United States flags at the time of the election were intimidated from doing so; and that a

number of republicans did not vote in that county on account of excitement and bad feeling manifested by the democrats. Information in regard to that county, similar to that derived from Senator Flanagan, also came from other parties. It was also reported to me that the democratic candidate, Mr. Herndon, in his canvass of the district, which, I understand, he did thoroughly, gave similar advice to that given by Judge John H. Ragan, and told his hearers that if anybody should resist the election orders of the governor, or refused to obey them, the services of competent legal gentlemen would be forthcoming to defend them gratis. It was further reported that he claimed to have been a good confederate throughout the war, and regretted that he had not been able to do more for that cause. That he regretted that he had not been a number of feet higher and thicker, and had forty-horse power to be able to add more to the success of the confederacy. His speeches generally are reported to have been very inflammatory. Two instances of personal violence from him to his opponent are reported during the joint discussion carried on between them. These were in Liberty and Rusk Counties. Generally throughout the district, if the reports I received are correct, and I received reports from many parts of the district, there was no such freedom of choice allowed to voters as would be likely to secure a fair election.

Question 6. To which political party did a majority of the voters of that district belong?—Answer. It is a matter of opinion. I presume, from my information of the district, that there would be a republican majority there if a perfectly fair and free election could be held.

Question 7. Which party has cast a majority of votes in that district at other elections held during your term of office?—Answer. Since my inauguration there has been no election held throughout the district other than this. In the election in the fall of 1869, for members of Congress, governor, &c., the republican candidate, Mr. Whitmore, had a majority over both his opponents.

Question 8. Has there been any congressional election held in that district, other than the one to which you have referred, since the reconstruction of the State?—A. There has not been.

Question 9. Were any official acts performed by yourself as governor, or by your subordinates, under your direction, at or about the time of the last election, and connected with the election, which were predicated upon the information to which you have referred?—Answer. My orders of election were issued because of such of that information as I had received previous to the election.

Question 10. Can you produce a copy of those orders?—Answer. I think I have a copy at my room, and I will attach it as exhibit A to my deposition, if I can find it.

Question 11. Were any other official acts of the character referred to performed by yourself or your subordinates previous to the election?—Answer. I do not recollect any other than those election orders.

Question 12. Did you receive any official reports from your subordinates with respect to the execution of those orders?—Answer. Yes; I have received some from the different parts of the State.

Question 13. Did they show any resistance to the execution of these orders on the part of the people of the first district?—Answer. From some counties of the first district they reported that they were wholly disregarded, especially in respect to that provision forbidding the assemblage of large numbers of persons about the polls when the voting was going on.

Question 14. State more fully the facts reported on that subject?—

Answer. They were to the effect that a large number of persons would get about the polls to scrutinize persons and watch voters, to find out how they were going to vote—shouting at them, jeering them, threatening them, cursing them, and all that sort of thing.

Question 15. Did the reports show at any of the precincts a separation of the voters into different bodies?

(Question objected to by the sitting member; that is, to the contents of the reports. Question withdrawn.)

Witness resumes and says:

This information that I have detailed is not altogether from official reports, but from other statements. All my information in regard to the manner of conducting the election is hearsay, derived from official reports and other statements, written and verbal.

Cross-examined by Mr. HERNDON:

Question 16. You state that it was reported to you that colored voters in the first district were threatened with loss of employment and personal violence if they voted the republican ticket. Now, state particularly who made such report or reports, where they resided, the county or town, and whether such report was in writing or verbally made, and where made, and whether before or after the election in October, 1871?—Answer. These reports to that effect came from various sources throughout the district, mainly since that election. A number of them have come to me under the shape of affidavits sent by Judge Cooper, of the district court; and, I think, from Judge Wheeler, of another district court within that district. I think some have come from Judge Priest, another judge within that district. Judge William Chambers, of another judicial district within that congressional district, sent me a long statement of his own personal observation, in the form of a letter not sworn to. I have received letters, besides the affidavits, from other parts of the district, complaining of the manner in which the election went on. I have not charged my mind with the names of all these parties, but, if desired, I think I could furnish the original affidavits and letters. Among other letters I remember of receiving was one or two from General A. T. Monroe, of Crockett, Houston County, giving his observations of the manner in which the election was conducted. These reports relate generally to the manner of conducting the election, and intimidation of voters, both white and black.

Question 17. Are not the five persons mentioned above, to wit, Judge Cooper, Judge Priest, Judge Wheeler, Judge Chambers, and A. T. Monroe, all officers appointed to their positions by yourself, and were they not required to, and did they not, canvass a portion of the district for contestant before said election?—Answer. The four judges of judicial districts mentioned were appointed by me and confirmed by the senate of the State of Texas to their respective positions. General A. T. Monroe is, I believe, a school supervisor, appointed by the superintendent of education of the State. I am not aware that any of those gentlemen were required to canvass for the republican candidate. They were certainly not required to do so by me. I have heard that Judge Chambers and Mr. Monroe, and perhaps Judge Priest, made some speeches in favor of the republican candidate, or rather of republican principles generally.

Question 18. Did not A. T. Monroe run for the State senate against James E. Dillard, in Cherokee and Houston Counties, the election coming off at the time of the congressional election, and within said first district, as a republican, and was he not defeated by Dillard, democrat,

by about eight hundred votes?—Answer. I understand he did, and he was defeated by about that number of votes.

Question 19. Can you name a single colored voter or white voter within the first district who was threatened with loss of employment, or was actually turned out of employment, or who was prevented from voting freely, from any cause whatever, at said congressional election? If so, give his name in full, and place of residence.—Answer. I have the names and residences of such persons coming under one or other of the different heads of intimidation and violence mentioned. They are included in these affidavits and statements to which I have referred, but it is more than a month since I read any of them, and then only hastily; I of course did not charge my mind with their names. They are persons not known to me individually. I can procure their names from the affidavits and statements, if desired, as I have some of these in my room in Washington.

Question 20. Did the judges of election in any one of the twenty-seven counties in the first congressional district send up an affidavit or affidavits, coupled with their election returns, to the state department, complaining of any fraud, intimidation, or violence, used at or during said election, and if so, state what judge or judges did so, and from what county or counties the same were so returned with the election returns, giving names and dates particularly.—Answer. I think that all such reports coupled with the returns have been referred to in the schedule attached to the certificate of election given to the sitting member. This is my recollection now.

Question 21. The votes of two counties in said district, to wit, Hardin and Rusk, are rejected, because in Hardin County David Choate, a member of the board of appeals, was expelled by the registrar, and one of the board of appeals, a colored man, having no voice in the matter. A man by the name of Leonard was placed on the board of appeals in lieu of Choate, and in consequence of this fact, and the terrorism in Hardin County, no votes were polled for the republican candidate, and the vote of Rusk County rejected on account of fraud and intimidation practiced upon colored and white voters. The election order was entirely disregarded, and numbers of men hung around the polls, scrutinizing voters, hooting at and insulting those who chose to vote the republican ticket. Now state if any affidavit by the judges of election in Hardin County, or any one of them, was coupled with the election returns and sent up to the state department, complaining of the facts above stated. If so, state particularly the names of the judge or judges that did so.—Answer. My recollection is that the only duly appointed members of the board of election of Hardin County who signed the returns sent up were the two men against whom charges were made of having combined to put out the expelled member. My recollection is they made no allusion to expelling anybody.

Question 22. Your answer to the last question, then, is, that no affidavit was sent up with the election returns by the judges of Hardin County?—Answer. The information in regard to that circumstance of the expulsion, my recollection is, did not come from the expelling members, but from other sources there, and was received about the time the election returns were made, but not in the same package with the returns. It was not sent up by the returning judges.

Question 23. Did David Choate, the member of the board of appeals said to have been expelled, make any complaint, by affidavit or otherwise, to you, complaining of his expulsion?—Answer. I think the complaint came directly or indirectly from him; am not sure, however, on this point. The information on which we acted is of record.

Question 24. It is stated in the clause in the certificate rejecting the vote of Hardin County that a colored man had no voice in the matter. Now do you know it to be a fact, from your own knowledge or from any other source, that there was a colored man on the election board in Hardin County at said election; and if so, state his name and your means of information.—Answer. I of course know nothing of my own knowledge about the matter. The boards of election are appointed without regard to color. I do not know the color of a great many of them. Our reference in that certificate to a colored man being on the board must, I suppose, have been because the statement upon which we acted must have referred to a member of the board of that color.

Question 25. Do you not know that David Choate failed and refused to act as one of the members of the board of appeals, and in consequence thereof the two remaining members of said board appointed John W. Leonard to act in the place of Choate?—Answer. I do not know anything about it—it might or might not have been—further than what has been stated.

Question 26. Is it not a fact that the information upon which you acted in regard to the rejection of the vote of Hardin County was received from Judge William Chambers, who resides in a different county?—Answer. Judge Chambers may possibly have written to me upon the subject in some one of the several letters received from him, but I don't now think he did.

Question 27. Can you name any person residing in Hardin County from whom you derived any of the information upon which you based your action in rejecting the vote of Hardin County?—Answer. I don't even recollect whether the party or parties making the statement on which we acted lived in Hardin County. This statement came in such shape that we gave it credence, and it can be had at Austin, if desired.

Question 28. Is it proper, under the election law, to make a record in the state department of letters and reports from parties who have nothing to do with the holding of the election, and upon such information to base the action of the board compiling the returns, and awarding the certificate of election?—Answer. The term making a record is perhaps not the proper one to use with regard to such communications, but unless they are avowedly private, and are intended to be kept so, they are filed in the department for future reference. I think that if the returning officers are satisfied of improper conduct at any of the polls, resulting in unfairness, it is their duty to reject such returns without regard to the manner or nature of the evidence on which they act.

Question 29. Do you not know from the official returns or otherwise that the contestant, G. W. Whitmore, in his election for Congress in 1869 against the Hon. James Armstrong and Horace Boughton, received only one vote in Hardin County, and that there were only sixty-odd votes cast at said election in said county?—A. I do not recollect with regard to Mr. Whitmore, but I, as candidate for governor, received none, I believe. There was, however, at that time, some charges against the conduct of the election board, coming from Colonel Hobby, at Galveston.

Question 30. Did the judges of election in Rusk County send up with the election returns any affidavit or affidavits complaining of fraud, intimidation, violence, or that any person looked scrutinizingly toward republican voters, at or during said election?—Answer. My impression now is, that in the election returns themselves nothing is said on the subject; but I am not sure but what, among the statements sent up in regard to that election, there was something from one or more of the board.

Question 31. Do you mean to say that any member of the board of election did send up with the election returns such affidavit as above mentioned, charging violence and intimidation?—Answer. Trusting to my recollection, I can only state as in answering the preceeding interrogatory.

Question 32. In the certificate of rejection of the vote of Rusk County it is stated that men hung around the polls scrutinizing and watching voters who chose to vote the republican ticket. Do you regard it as a crime, under the election law of Texas, for one voter, or a number of voters, to look at others while voting at the polls?—Answer. I regard that, under the election laws of Texas and of the United States, any practice which tends to impair the perfect freedom of choice on the part of the voters, it is forbidden. Where the knowledge of the manner in which a white man or colored man proposes to vote is likely to subject him, in the one case, to social ostracism by his neighbors, to loss of standing among them, perhaps even personal violence, and in the case of the colored man, to personal violence or loss of employment, that he cannot freely exercise the privilege of voting. I think, and am, in fact, quite sure that not only in Rusk County, but in nearly every other county throughout that district, numbers of persons, both white and colored, would have voted the republican ticket at the recent election, had not the speeches of the democratic orators and the conduct of the white democrats, both before and during the election, given persons reason to believe that by voting the republican ticket they would subject themselves to some one or all of the above-mentioned inconveniences.

Question 33. Can you name one single voter, white or black, within said first district, who did not vote at said congressional election in October, 1871, who was prevented from doing so by any cause whatever? and if so, give his name in full, and place of residence.—Answer. The only answer I can give to this question is that which I have already given to the 19th previous question.

Question 34. Is it not true that you were not within the first congressional district at said election, and for ninety days prior to that time?—Answer. I have not been within the first congressional district since the fall of 1869.

Question 35. You stated that there was a republican majority in the first district in the congressional election in 1869. Is it not true that contestant received about 8,000 votes in the district at said election, and that his opponents, Armstrong and Boughton, received about 7,700 votes? And is it not also true that in the last election contestant received a larger vote than that of 1869, his vote in the last election being 10,209, and that the vote of the sitting member in said election was 14,521, as shown by the official returns in the certificate of the sitting member?—Answer. Yes; that is about so, as far as the official returns show it.

Question 36. Is it not true that a large number of white voters were disfranchised and not permitted to register or vote in the congressional election of 1869, before the reconstruction of the State of Texas, and that since the reconstruction of the State, and immediately prior to the last election, opportunity was given to all this class to register and vote, their disfranchisement having been removed by the fourteenth amendment to the Constitution of the United States and the constitution of the State of Texas?—Answer. Some were disfranchised in 1869, who probably would have registered and voted. How many I can only conjecture. I presume that a number or all of these registered and voted at the last election.

Question 37. Was not the total vote cast in the congressional election of 1869 about 15,200 in said first district; and is not the total vote in said district cast at the last election about 24,700, showing an increase or a difference of votes in the two elections of about 9,500 more in the election of 1871 than in that of 1869?—Answer. I believe that is about as the returns have it.

Question 38. You stated in a previous question that a large number of colored men desired to march into Henderson, Rusk County, under the United States flag during the election. Is it not true that there were about 700 of these colored men who had organized at Senator Flanagan's house in said county, and who sought to march in a body to the election-polls, and, if they had been permitted to do so, would it not have been a violation of your election order of August 9, 1871?—Answer. I do not know whether it is true that they had any such purpose. I have not been informed of any organization of the kind. If 700 men in a body had attempted to go to the polls it would have been a violation of the election order.

Question 39. Did you not have a large number of the State police and twenty special policemen for each county called out and acting during the registration and election in said district, and if these were not all appointed to their positions by you or under your authority?—Answer. I think that in a number of counties in that district there were neither State nor special policemen at the election. The State police is so small that it could not have averaged more than three or four to each county, even if I had scattered them around in all the counties. Twenty special police are authorized to be mustered in by the governor for each county. In some counties of the district a full number might have been, and were, organized. In others half, or less than half, of that number. In others again, I am informed, none at all were.

Question 40. Can you name any county in the district in which there were no police, either State or special?—Answer. I do not think there were in Hardin County; at least none have been reported to me. Do not think there were any in Jasper, or Newton, or Orange Counties. Sometimes when they were appointed they did not act. There has been many instances that when appointed they did not act.

Question 41. Were not all the registrars, boards of appeal, and election judges within said district appointed by you or under your authority?—Answer. Not all of those who acted were appointed by me. Where vacancies existed, and I had not time to appoint, they were filled as the law directs.

Question 42. After the election returns were compiled and compared, did you not issue the certificate of election to contestant, G. W. Whitmore, but not deliver the same to him, and afterward issue and deliver the certificate of election to the sitting member?—Answer. No, sir; I did not.

Question 43. You state that it was reported to you that J. H. Ragan and the sitting member made inflammatory speeches in the canvass before the election, and advised persons to disobey the election orders of the governor. Please state the name of the person or persons who made such report, and their residence, and whether the report was before or after the election.—Answer. All persons who made the statement as regards one of those gentlemen did not make it with regard to the other; that is, the same persons did not speak as to the speeches made by both parties generally. Judge Chambers, I think, was one; General Munroe; I think Judge Priest also did. I was written about his speeches at Henderson, in Rusk County, and at Tyler, in Smith

County, as to his speech there. That he made a speech in Palestine I also have some information about. I refer to Ragan's speeches. Judge Chambers and General Munroe, among others, spoke of Mr. Henderson's speech. Without referring to letters, I could not, at the moment, give particulars as to other names.

Question 44. Is not all your information upon this subject derived from republicans opposed in politics to the sitting member?—Answer. I believe the most of it is.

Question 45. Do you know of a breach of the peace within said district occurring during said election? If so, describe it, names of parties, &c.—Answer. While the election was actually going on I do not now recollect of any breach of the peace that resulted in violence.

Question 46. Do you know of a single instance, within said district, where your election order of 9th of August, 1871, was violated? If so, describe the occurrence and parties that violated the order.—Answer. I only know on the subject as already stated.

EDM'D J. DAVIS.

Subscribed and sworn to before me this 27th day of January, A. D. 1872.

I. L. JOHNSON,
United States Commissioner.

Mr. Herndon, the sitting member, desired to continue the cross-examination of the witness, which was not closed, because the witness stated that he was compelled to leave the city for New York, and did so leave at twenty minutes past 4 o'clock; therefore, a further examination is postponed to some future day, to be determined by the parties.

I. L. JOHNSON,
United States Commissioner.

It is agreed by the undersigned that E. J. Davis, the above witness, did not leave the city of Washington, for New York, on 27th January, 1872, and that he was in Washington on Monday, 29th January, 1872. And the undersigned, H. E. Paine, is informed and believes that said witness called at his office, to be cross-examined, on Monday, 29th January, 1872, in his absence. And the undersigned, W. S. Herndon, states that he, with the said I. L. Johnson, United States commissioner, appeared at said H. E. Paine's office, at the hour appointed, 2 o'clock p. m. 29th January, 1872, and remained there until after 4 o'clock p. m. January 29, 1872, and that he did not see said witness.

W. S. HERNDON,
Sitting Member.
H. E. PAINE,
Attorney for Contestant.

FEBRUARY 24, 1872.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

I, Isaac L. Johnson, United States commissioner in and for the county and District aforesaid, do hereby certify that, in pursuance of the annexed notice, the foregoing deposition of Edmund J. Davis was taken down, and by me reduced to writing, in the presence of and from the statements of the witness, at the time and place designated in the caption thereof, and was then and there read over to the witness, and by him subscribed in my presence, and in the presence of H. E. Paine, esq., counsel for G. W. Whitmore, the contestant, and W. S. Herndon,

the sitting member, who were then and there attending; the witness having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause, or in any matter interested therein.

[SEAL.] I. L. JOHNSON,
United States Commissioner.

G. W. WHITMORE *vs.* W. S. HERNDON. } Contested election, United States House of Representatives. First district of Texas.

Hon. W. S. Herndon:

SIR: You are hereby notified that, in pursuance of authority conferred by a resolution of the House of Representatives, adopted December 18, 1871, I intend to examine J. W. Flanagan, of Walling's Ferry, Texas; C. Caldwell, of Grimes County, Texas; J. P. Newcomb, of Austin, Texas; and E. J. Davis, of Austin, Texas, as witnesses in the above-entitled case, at the office of H. E. Paine, No. 412 Fifth street, Washington, District of Columbia, before Isaac L. Johnson, esq., commissioner, on Tuesday, December 26, 1871, between the hours of 10 o'clock a. m. and 4 o'clock p. m., the examination to continue from day to day, between the same hours, until completed.

Your obedient servant,

G. W. WHITMORE.

WASHINGTON, *December* 20, 1871.

THE STATE OF TEXAS, *County of Rusk:*

To the Hon. George H. Gould, notary public for said county of Rusk and State of Texas:

In the contested-election case of George W. Whitmore *vs.* W. S. Herndon, in the first congressional district of the State of Texas, now pending before the House of Representatives of the United States, the said W. S. Herndon, by his attorneys, James H. Jones and W. W. Morris, makes application to examine, at your office in the town of Henderson, in the county of Rusk, on the 15th day of February, 1872, the following witnesses in his behalf, to wit: Giles S. Boggess, sr., Giles S. Boggess, jr., Sharp R. Whitley, A. F. Lacy, Thomas Ramey, W. W. Morris, Wash. Shedd, (colored,) Levi Redwine, (colored,) and Henry Bowdon, (colored,) and prays that subpœnas be issued for the same.

W. S. HERNDON.

By attorneys, { J. H. JONES, W. W. MORRIS.

Indorsement.

Contested election. G. W. Whitmore *vs.* W. S. Herndon. Application to take testimony. Filed in office 25th January, 1872. Jones & Morris. G. H. Gould, notary public.

TESTIMONY OF SITTING MEMBER.

1. *Depositions taken in Rusk County.*

The contested-election case of G. W. Whitmore vs. W. S. Herndon, in the first congressional district of Texas.

To the Hon. G. W. Whitmore, a resident of the County of Smith, and State of Texas:

You will please take notice that, on the 15th day of February, 1872, at the office of George H. Gould, a notary public for the State of Texas, and county of Rusk, in the town of Henderson, in said State and county, it is my intention to then and there cause to be taken, by said notary, the testimony of Giles S. Boggess, sr., Giles S. Boggess, jr., S. R. Whitley, A. F. Lacy, Thomas Ramey, W. W. Morris, Wash. Shedd, (colored,) Levi Redwine, (colored,) and Henry Bowdon, (colored;) said witnesses all reside within said county of Rusk, and State of Texas, whose testimony will be read by me on the trial of the above-stated case in the Congress of the United States.

W. S. HERNDON,
By attorneys, J. H. JONES,
W. W. MORRIS.

Received in office February 3, 1871. Executed the same day, by delivering a true copy of the within citation to the within-named G. W. Whitmore in person.

J. W. BUTLER,
Sheriff of Smith County, Texas.

Indorsement.

Election contest, G. W. Whitmore *vs.* W. S. Herndon. Original notice to Whitmore of taking testimony. Jones & Morris.

THE STATE OF TEXAS:

To the sheriff, or any constable of Rusk County, State aforesaid, greeting:

You are hereby commanded to summon Giles S. Boggess, sr., Giles S. Boggess, jr., Sharp R. Whitley, A. F. Lacy, Thomas Ramey, W. W. Morris, Wash. Shedd, Levi Redwine, and Henry Bowdon, to be and appear before G. H. Gould, notary public, of Rusk County, on the 15th day of February, A. D. 1872, at Henderson, in said Rusk County, to give evidence in a case wherein G. W. Whitmore is contestant, and W. S. Herndon is respondent, in behalf of the respondent, in contested election first congressional district. Fail not, and make due return as the law directs.

Given under my hand this the 7th day of February, 1872.

G. H. GOULD,
J. P., District No. 1, Rusk County, and Notary Public.

W. S. Herndon *vs.* G. W. Whitmore. Subpœna for Giles S. Boggess, sr., Giles S. Boggess, jr., Sharp R. Whitley, A. F. Lacy, W. W. Morris, Wash. Shedd, (colored,) Henry Bowdon, (colored,) Levi Redwine, (colored,) Thomas Ramey.

Served, by reading the within writ to all the above parties, except Thomas Ramey, who is out of the county, this 8th February, 1872.

Charges.—Serving 8 writs, $2; mileage, $1 05; total, $3 05.

L. R. GRAHAM,
Constable, Rusk County.

THE STATE OF TEXAS, *County of Rusk:*

February 15, 1872. Contested-election case of G. W. Whitmore *vs.* W. S. Herndon, first congressional district of Texas.

This being the day appointed to take testimony in the said contested-election case, and ten days' notice having been duly served on G. W. Whitmore, contestant, the following testimony was taken, at instance of W. S. Herndon:

W. W. MORRIS sworn and examined.

Question. Were you present at the election in Rusk County for members of Congress, in the first congressional district of Texas, held in October last?—Answer. I was in town every day during the election, most of the time at my office, but as many as two or three times at the polls.

Question. What do you know about the fairness or unfairness of the election, and the intimidation of voters?—Answer. As I was on the street, about the second or third day of the election, I was told by a by-stander that there was a negro at my law-office wishing to see me. I went to my law-office, and there I found a freedman who said he wished to consult me. He stated that he wished to vote for W. S. Herndon, but had been told by a colored man, who said he was a member of the Loyal League, that if he voted for Herndon he would be punished. The freedman then asked my advice. I told him that, under the law, he was free to vote for whom he pleased. I asked him who it was that threatened to punish him for voting for Herndon. He said he did not know his name. I then asked him who was going to punish him, and he said he understood it was the Loyal League. He then sat in my office for some time in silence, and then said he reckoned he had better vote for Whitmore. I told him very well, or something to that effect, and he left my office. With the above exception, as far as I saw, it was as fair and as peaceable an election as I ever witnessed. I think the arrangement of the officers, allowing the colored men to vote for an hour, and then the whites an hour, alternately, secured the utmost fairness and peace.

W. W. MORRIS.

Reduced to writing and sworn to and signed before me this 15th day of February, 1872.

G. H. GOULD,
Notary Public, Rusk County, Texas.

LEVI REDWINE (colored) sworn and examined.

Question. Were you at the election in Rusk County, on last October, for members of Congress from the first congressional district of Texas?—Answer. I was at the election on the first and third days of said election.

Question. What do you know about the fairness or unfairness of said election, and intimidation?—Answer. The first day was perfectly fair and peaceable, as far as I saw or know. On the third day of the election

I went to the polls and voted for W. S. Herndon, and as I retired from the polls, a little out of the crowd, I saw two colored policemen (one by the name of Anthony Devereaux, the other name unknown) in consultation with two white men, one by the name of Buck Flanagan, and I think the name of the other was E. S. Graham. Buck Flanagan (who is a son of J. W. Flanagan, United States Senator) took a paper out of his pocket and, holding it down between his knees, tore it in two and handed one piece to policeman Devereaux and the other to the other policeman, at the same time pointing to me. Devereaux then came directly to me, and told me to go with him, and upon my failing to comply immediately he ordered me again, with an oath, to go with him, which I did, saying nothing. He took me around on the opposite side of the court-house from where we were standing, and turned me over to some other policemen, telling them that I was under arrest and they must take care of me. While in custody of these policemen a by-stander, a colored man, by the name of Harry Kelley, told me not to move, or there would be forty bullet-holes put in me in a minute. Shortly after this Colonel Giles S. Boggess, sr., came up and asked what they had me arrested for. I told him I did not know, as I had done nothing out of the way. The policemen made no reply to Colonel Boggess's question, and he demanded again to know by what authority they held me in custody. About that time another policeman came up, and said I was released, and I walked off. There was also another colored man, by the name of Frank Smith, who voted for Herndon, with me, and was arrested at the same time I was. I also heard that others were arrested for voting the democratic ticket, but I did not see it. My brother, Bob Coleman, told me, before I voted, that if I voted the democratic ticket they would put me in jail, but I told him I would vote it anyhow.

LEVI REDWINE.

Reduced to writing, sworn to, and subscribed before me this 15th February, 1872.

G. H. GOULD,
Notary Public, Rusk County, Texas.

GILES S. BOGGESS, sr., sworn and examined.

Question. Were you at the election in October last in Rusk County for Representative to Congress for the first congressional district of Texas?—Answer. I was at said election, and about the polls nearly all the time.

Question. What do you know about the fairness or unfairness of said election, and about the intimidation, if any?—Answer. There was no intimidation on the part of the democrats, as far as I heard or saw. But I am satisfied that there was fraud and intimidation on the part of the republicans. I saw two negroes under arrest in the hands of the police, one by the name of Levi Redwine and one by the name of Frank Smith. I called upon the police to know why they had arrested said negroes. They gave me no answer. I called upon them the second time to know what charge they had against said negroes, and they still gave me no answer. And about that time Buck Flanagan (son of Senator Flanagan) stepped up, and one of the policemen told Levi Redwine that he could go. I heard of others being arrested because they voted the democratic ticket. I went with two white men by the name of Morris, who wanted to vote the democratic ticket, to Colonel J. J. Carey, the registrar for Rusk County, and he refused to register them because they would not swear that they had been in the State twelve months and six months in the

county. They were willing to swear that they had been in the State twelve months and four months in the county, and so stated to the registrar, who admitted that three months in the county was all the law required, but that his instructions said six months. The freedman Redwine, who was arrested on the day of election, is looked upon as a strictly sober, peaceable, inoffensive man; I have never known him to be in a difficulty of any kind, and at the time he was arrested was conducting himself perfectly quiet, disturbing nobody in any manner. Neither did I see Frank Smith disturbing anybody at the time he was arrested, and he, too, is a peaceable citizen, as far as I know.

Question. What did you do toward getting the freedmen to the polls?—Answer. I told them to come to the election by all means, and vote for whoever they pleased, and they should not be harmed or disturbed; and I told other negroes to encourage all the freedmen to come to the polls and vote. This was also done by other democrats, and in fact was the desire of the democratic party at this place and in this county, as far as I know. The reason we democrats did this was because it was the impression that Governor Davis had sent, or would send, out men to take down the names of all freedmen who staid away from the election on account of alleged intimidation, and the name of the candidate for whom they would have voted, thereby intending to base a pretext on which to throw out the vote of the county, if it was necessary to the interest of the republicans. And we democrats were anxious that there should be a free and untrammeled expression by the people, and a fair election, that the republicans might have no cause to complain.

Question. Are you acquainted with W. W. Morris, who has already testified in this case, and what profession does he follow?—Answer. I know Judge W. W. Morris, and he is a practicing attorney at this place.

Question. Did you assist in any arrangements before the election to secure a peaceable and fair election?—Answer. I went to Colonel Cary, the registrar of the county, to try and make some arrangements to have a peaceable and fair election. I proposed to him to have some white policemen appointed to police the whites during the election, as I thought that would keep down trouble. He said, "Yes; and I'll appoint you captain." This was some time before the election. The morning of the election I went to Colonel Cary, and he refused to make the arrangement above referred to. I then went to A. F. Lacy and S. R. Whitley, who were managers of the election, and members of the board of appeals, and also deputy sheriffs of Rusk County. I made the proposition then to them to have a white police appointed, which they, Whitley and Lacy, thought to be a good arrangement. I then gave them fifteen or sixteen names. They objected to two of the names I proposed, saying they were too young. I then gave them two other names, with the proposition that the whites and freedmen should each vote an hour alternately through the election day, and gave them half an hour in which to answer me. They, Lacy and Whitley, came in fifteen or twenty minutes, told me my proposition was a very good one, and they would, and did, accede to it. The election then opened, and the election then proceeded as agreed upon, till the closing of the polls; the freedmen taking or occupying the alternate hours; they, the freedmen, taking the first hour at the commencement of the voting. The police appointed by the governor of the State, and the police suggested by me, seemed to act in perfect harmony during the whole election, with the exceptions of the arrests heretofore spoken of by me.

Question. Who were the active deputies in the sheriff's office of this

county at that time?—Answer. S. R. Whitley and A. F. Lacy do the principal part of the business—in fact, all or nearly all. The sheriff resides twenty miles from Henderson, and is a farmer. W. C. Fitzhugh, one of the deputies, attends the jail.

Question. Are you acquainted with the handwriting of A. F. Lacy and S. R. Whitley, and have you ever seen them write?—Answer. I am acquainted with the handwriting of S. R. Whitley, and have seen him write; I have also seen A. F. Lacy write.

Question. Look on the paper marked Exhibit A, and see if you recognize the signatures of S. R. Whitley and A. F. Lacy.—Answer. I recognize the genuine signature of S. R. Whitley signed at the bottom of said paper, but cannot say that A. F. Lacy signed said paper, as I am not sufficiently acquainted with his handwriting.

GILES S. BOGGESS, SR.

Reduced to writing and sworn to and subscribed in my presence this 15th February, 1872.

G. H. GOULD,
Notary Public.

EXHIBIT A.

At an election held in the town of Henderson, Rusk County, Texas, on the 3d, 4th, 5th, and 6th days of October, A. D. 1871, for a member to the Congress of the United States, there were three thousand and fourteen votes cast, seventeen hundred and seventy-one (1,771) white and twelve hundred and forty-three (1,243) colored. W. S. Herndon received sixteen hundred and fifty-one votes; G. W. Whitmore received thirteen hundred and sixty-three votes. W. S. Herndon received two hundred and eighty-eight majority.

Said election passed off quietly, and we saw no appearance of fraud or intimidation, nor do we believe there was any practiced. That at the close of said election the friends of both parties expressed themselves satisfied.

Witness our hands this the 11th day of December, A. D. 1871.

I was a member of the board of election, and hereby certify that the same was fairly and impartially conducted, and there was no intimidation practiced so far as I was able to ascertain.

S. R. WHITLEY, *Member Board of Appeals.*
A. F. LACEY, *Member Board of Appeals.*

GILES S. BOGGESS, jr., sworn and examined.

Question. Were you present at the election on last October for member of Congress for the first congressional district of Texas?—Answer. I was present at said election, in the room where the votes were polled, being placed there as a democrat to see that the election was conducted fairly by the registrar of Rusk County, under an order from Governor Davis.

Question. Who were the officers that conducted said election, and what were their politics?—Answer. S. R. Whitley, republican; Henry Bowdon, (colored,) republican; A. F. Lacy, republican; E. S. Graham, (clerk,) republican; S. J. Ramey, (clerk,) republican; T. J. Ramey, (clerk,) democrat; F. W. Derrington, in the same capacity as myself, and for the republicans, and John Wherry, (clerk,) republican; John J. Carey, registrar, and a republican.

Question. What do you know about the fairness or unfairness of said

election, or about intimidation?—Answer. It was a fair election, as far as I know. I am of the opinion that several colored men voted the republican ticket who were under age, but they exhibited their registration papers and the managers could do nothing in regard to the matter. I never witnessed as quiet and regular an election in my life, and I have attended many an election. And all the managers so expressed themselves.

GILES S. BOGGESS, JR.

Reduced to writing and sworn to and signed in my presence, at my office in Henderson, this 15th February, 1872.

G. H. GOULD,
Notary Public, Rusk County, Texas.

W. W. MORRIS recalled.

Question. Are you acquainted with the handwriting of S. R. Whitley and A. F. Lacy, and have you seen them write?—Answer. I am acquainted with the handwriting of S. R. Whitley and A. F. Lacy, and have frequently seen them write.

Question. Look on the paper marked Exhibit A, attached to the testimony of Giles S. Boggess, sr., and see if you find the signatures of said Whitley and Lacy?—Answer. I find the names of S. R. Whitley and A. F. Lacy subscribed to the paper marked Exhibit A, and am of the opinion that they signed the same. I am a democrat, and made a speech during the canvass at Center, in Rusk County, being called on after Herndon had closed his speech, and I there urged all the freedmen to go to the polls and vote as they pleased, and they would not be interfered with by the democrats, as also did R. M. Wynne, esq., who made a speech at that place for the democrats, because the public impression was that some would stay away, at the instance of republicans, upon alleged intimidation, thereby giving a pretext to set aside the election if it went against the republicans. This was several days before the election.

W. W. MORRIS.

Reduced to writing and sworn to and signed before me this 15th February, 1872.

G. H. GOULD,
Notary Public, Rusk County, Texas.

THE STATE OF TEXAS, *County of Rusk:*

I, G. H. Gould, a notary public in and for the county of Rusk and State of Texas, hereby certify that on this, the 15th day of February, A. D. 1872, in the contested election case of G. W. Whitmore *vs.* W. S. Herndon, in the first congressional district of Texas, the foregoing seventeen pages of testimony were taken, reduced to writing, signed and sworn to in my presence, at my office in the town of Henderson, Rusk County, Texas, and also in the presence of W. W. Morris, agent for W. S. Herndon.

And I further hereby certify that the following witnesses were examined and gave the foregoing said testimony, which was reduced to writing in their presence, signed and sworn to by them respectively:

W. W. Morris, Levi Redwine, Giles S. Boggess, sr., and Giles S. Boggess, jr.

And I further hereby certify that the following-named witnesses were duly summoned, and on the day appointed, being called, failed to come and testify: A. F. Lacy, S. R. Whitley, and Henry Bowdon. Witness Wash Shedd also failed to attend.

In testimony of which I hereunto set my official seal and signature, at Henderson, Texas, this the 15th day of February, 1872.

[SEAL.]

G. H. GOULD,
Notary Public, Rusk County, Texas.

---

2. *Testimony of David Choate.*

Contest pending before the House of Representatives of the Congress of the United States of America.

GEORGE W. WHITMORE,
vs.
WILLIAM S. HERNDON.

Interrogatories to be propounded to David Choate, a resident citizen of the county of Hardin, State of Texas, a material witness for the defendant in the above-entitled contest:

Interrogatory 1. Are you acquainted with the parties to this contest?

Interrogatory 2. To what political party do you belong?

Interrogatory 3. Are you or not an officer of elections in Hardin County, and if so, what office do you hold?

Interrogatory 4. If you answer that you are a member of the board of appeals in Hardin County, please state if you exercised the functions of said office at an election held in Hardin County on the 2d, 3d, 4th, and 5th days of October, A. D. 1871, for the purpose of electing a Representative in the Congress of the United States from the first congressional district of Texas.

Interrogatory 5. If you state that you did not act as judge of said election, please state why you did not act, and who filled your place.

Interrogatory 6. If you state that John W. Leonard acted as judge in your stead, please state who appointed him, and whether you did arrive at the polls after the same had been closed, and when you did arrive at the polls; please state also whether the said John W. Leonard did not offer to relinquish said position of judge of election to you, and if yea, what you said to him.

Interrogatory 7. Please state if you know of any act of intimidation performed by any citizen of Hardin County, whereby it was rendered unsafe for any voter to vote for the plaintiff, George W. Whitmore, or any other candidate.

Interrogatory 8. Do you believe that terrorism exists in Hardin County? Do you know of any republican being prevented from voting in said county, by fraud, intimidation, or undue influence? And give all the facts if you know of any such case, time, place, and who was so intimidated, &c.

Interrogatory 9. Do you know the members of the board of appeals of Hardin County, and if yea, give their names, and state if they are white or colored men.

Interrogatory 10. Are the citizens of Hardin County quiet and peaceable and law-abiding or not? And state if you know of any breach of the peace at the county seat of Hardin County during said election.

Interrogatory 11. Are you a member of any political society or organization, secret or otherwise, and if yea, what society or organization?

Interrogatory 12. Please state all you may know in relation to the subject-matter of this contest as fully as though you had been specially interrogated, that may be of benefit to the defendant, W. S. Herndon.

JOHN W. LEONARD,
Attorney for W. S. Herndon.

Indorsement.

Forty-second Congress, House of Representatives. George W. Whitmore *vs.* W. S. Herndon. Contest of seat.

Interrogatories to David Choate, a citizen of Hardin County, Texas.

I hereby waive the notice of the within interrogatories to which I am entitled, and consent that the testimony of said witness be immediately taken. Witness my hand this 16th day of February, A. D. 1872.

WILLIAM CHAMBERS,
Attorney for G. W. Whitmore.

GEORGE W. WHITMORE,
vs.
WILLIAM S. HERNDON.

Cross-interrogatories to be propounded to David Choate, a resident citizen of Hardin County, in said cause:

Cross-interrogatory 1. Why did you not act as an officer of the said election? Have you not stated to citizens of Hardin and Jefferson Counties that a fair election could not be held in Hardin County?

Cross-interrogatory 2. If you have so stated, then state why a fair election cannot be held in said county.

Cross-interrogatory 3. How many colored voters are there in Hardin County? How many colored voters voted at said election?

Cross-interrogatory 4. Why did not the colored voters of Hardin County vote at said election?

Cross-interrogatory 5. Were you present at the town of Hardin some time before the election, at a public discussion between said Whitmore and Herndon; and if so, was there not a disturbance during the time Whitmore was speaking, and what caused it?

Cross-interrogatory 6. Was there not an attempt made to prevent Whitmore from concluding his speech? Was he not rudely and insultingly interrupted by a citizen or citizens of Hardin County? And was there not a movement made to prevent him, by removing him by violence from the stand, from finishing his speech?

Cross-interrogatory 7. Did not the sheriff interfere to keep order and to prevent violence? Please state fully what you saw and know about the subject on which you are interrogated.

Cross-interrogatory 8. Were not the whisky-shops kept open during the days of said election? If you say you do not know, say whether or not there were any drunken men at the polls during said election, and state if they were not boisterous and threatening.

Cross-interrogatory 9. How many voters are there in Hardin County? How many voted at said election?

Cross-interrogatory 10. If you state that John A. Leonard acted as judge of said election, in your place and stead, then state how long he has lived in Hardin County; how long he has lived in Texas; where was he born?

Cross-interrogatory 11. Is not said Leonard a very noisy, blustering democrat? Have you not heard him frequently denounce the Government of the United States, because of the emancipation of the slaves?

Cross-interrogatory 12. Do you believe from your knowledge of the people of Hardin County that a republican, in electioneering in said county, would be treated with the same manner as a Democrat would be?

Cross-interrogatory 13. If you know of anything further that would benefit the plaintiff, Whitmore, please state it.

WILLIAM CHAMBERS,
Attorney for Whitmore.

THE STATE OF TEXAS, *Liberty County:*

Before me, C. C. Chambers, a notary public within and for the said county of Liberty, State of Texas, duly commissioned and qualified, personally appeared at my office, in the town of Liberty in said county and State, David Choate, a citizen of the county of Hardin in said State, who, being by me duly sworn, deposes and says, in answer to the annexed and foregoing interrogatories and cross-interrogatories, as follows, to wit:

To the first interrogatory he says: I have seen them both.

To the second interrogatory he says: Republican party.

To the third interrogatory he says: I was appointed a member of the board of appeals in said Hardin County.

To the fourth interrogatory he says: During the election I did not act as a member of said board.

To the fifth interrogatory he says: I did not arrive at the polls in time, being an hour or two too late, *i. e.*, after the polls were or should have been opened; John W. Leonard was appointed in my place.

To the sixth interrogatory he says: I don't know who appointed him; Leonard did not offer to me to relinquish his appointment.

To the seventh interrogotory he says: I know of no act of intimidation on the part of any one that would prevent any voter from voting for George W. Whitmore, plaintiff, at said election.

To the eighth interrogatory he says: There is no terrorism existing in Hardin County now, nor was there then that I know of. I don't know of any republican being prevented from voting at said election in said county.

To the ninth interrogatory he says: I do; John Dollard, Richard Evans, and myself were the members; we are all white.

To the tenth interrogatory he says: The people of Hardin County are quiet and law-abiding, as far as I know. I was not at the election during the days of election. I remained at the polls only a short time, when I went there, as before stated, for the purpose of acting as member of board of appeals.

To the eleventh interrogatory he says: I am not.

To the twelfth interrogatory he says: I know nothing more.

DAVID CHOATE.

Sworn to and subscribed before me, and in the presence of Wharton

Branch and these only, this 16th day of February, A. D. 1872. Witness my hand and notarial seal this the day and date aforesaid.

[SEAL.]

C. C. CHAMBERS,
Notary Public, Liberty County, Texas.

Answer of David Choate to the cross-interrogatories propounded herein on behalf of George W. Whitmore, plaintiff:

To the first cross-interrogatory he says: I have stated the reason that I did not act was that I arrived at the polls after they were opened, and another man appointed in my place. I may have said that I did not believe that a fair election could be held in Hardin County, but do not recollect it.

To the second cross-interrogatory he says: I may have said that an election in Hardin County was a one-sided thing, but I won't swear to it.

To the third cross-interrogatory he says: I suppose there are about twenty-five or thirty colored voters in Hardin County; I don't know that any one voted.

To the fourth cross-interrogatory he says: I don't know whether they voted or not.

To the fifth cross-interrogatory he says: I was not, but I understood there was.

To the sixth cross-interrogatory he says: I merely understood so, but I did not see it; I know nothing of that.

To the seventh cross-interrogatory he says: I don't know.

To the eighth cross-interrogatory he says: I don't know; I was not there.

To the ninth cross-interrogatory he says: I suppose there are about two hundred voters in Hardin County; I don't know how many voted.

To the tenth cross-interrogatory he says: He has been in Texas about two years; he had been in Hardin County about a year; he says he was born in England.

To the eleventh cross-interrogatory he says: He is a democrat; I don't know about his being noisy.

To the twelfth cross-interrogatory he says: I don't know, but hardly think he would.

To the thirteenth cross-interrogatory he says: I don't know anything more.

DAVID CHOATE.

Sworn to and subscribed before me, and in the presence of Wharton Branch and these only, this 16th day of February, A. D. 1872.

To certify which I hereunto sign my name and affix my official seal, at the office in the town of Liberty, this the last day and date above written.

[SEAL.]

C. C. CHAMBERS,
Notary Public, Liberty County, Texas.

---

3. *Depositions taken in Liberty County.*

THE STATE OF TEXAS, *County of Liberty:*

To Wilson Brooks, esq., notary public for the county and State aforesaid:

We, the undersigned, attorneys for W. S. Herndon, would respectfully request that you issue subpœnas to the following witnesses, to wit:

W. H. Perryman, H. H. Dever, John Partlow, C. C. Chambers, Alcide Theviot, A. N. B. Tompkins, William G. Nolan, Joseph Richardson, William C. Young, Isaac Dickinson, James Minter, Wharton Branch, and Thomas McClanahan, who reside in Liberty County, State aforesaid, requiring them to appear before you on the 17th day of February, A. D. 1872, at the court-house of Liberty County, to give their evidence in the matter of the contested-election case of G. W. Whitmore *vs.* W. S. Herndon, now pending before the honorable House of Representatives of the Congress of the United States.

E. B. PICKETT,
F. F. FOSCUE,
Attorneys for Herndon.

FEBRUARY 5, 1872.

The State of Texas to the sheriff or any constable of Liberty County, greeting:

You are hereby commanded that you summon W. W. Perryman, H. H. Dever, John Partlow, C. C. Chambers, Alcide Theviot, A. N. B. Tompkins, William G. Nolan, Joseph Richardson, William C. Young, Isaac Dickinson, James G. Minter, Wharton Branch, and Thomas McClanahan, to be and appear before me, at the court-house of the town of Liberty, on Saturday, the 17th day of February, A. D. 1872, then and there to testify in a cause now pending before the House of Representatives of the United States, wherein W. S. Herndon is sitting member and G. W. Whitmore is contestant, and that you continue in attendance before me from day to day until discharged. Herein fail not, and due return of this writ make.

Witness my hand this the 6th day of February, A. D. 1872.

[SEAL.] WILSON BROOKS,
Notary Public Liberty County, Pr. No. 5.

THE STATE OF TEXAS, *County of Liberty:*

Came to hand the 6th day of February, A. D. 1872, and executed on the 10th day of February, A. D. 1872, by summoning W. W. Perryman, W. G. Nolan, James Minter, A. N. B. Tompkins, and C. C. Chambers; the balance not found.

H. H. DEVER,
Sheriff of Liberty County.

I hereby accept service hereof, and waive service of subpœna.

H. H. DEVER,
Sheriff of Liberty County.

In the matter of the contested-election case of George W. Whitmore *vs.* W. S. Herndon, from the first congressional district of Texas, now pending before the House of Representatives of the Congress of the United States.

To George W. Whitmore, or to his duly appointed agent and attorney, the Hon. William Chambers:

SIR: You will take notice that at the expiration of ten days from the service hereof, to wit, on the 17th day of February, A. D. 1872, I will

apply to Wilson Brooks, esq., a notary public within and for Liberty County, to take the testimony of W. W. Perryman, H. H. Dever, John Partlow, C. C. Chambers, Alcide Theviot, A. N. B. Tompkins, William G. Nolan, Joseph Richardson, William C. Young, Isaac Dickinson, James Minter, Wharton Branch, and Thomas McClanahan, as witnesses in behalf of W. S. Herndon, who reside in Liberty County, State of Texas, and whose answers will be taken and read as evidence upon the trial of said election case.

E. B. PICKETT,
F. F. FOSCUE,
Attorneys for W. S. Herndon.

Interrogatory 1. In what State and county do you reside?

Interrogatory 2. If, in answer to interrogatory 1, you state that you reside in Liberty County, you and each of you will state in what part of said county you reside; and if any of you reside in the said town of Liberty, state what part of said town you reside in or do business in; and how far from the court-house of said county you reside or do business?

Interrogatory 3. If, in answer to interrogatory 1, you say that you live in Liberty County, state whether or not you were in said county on the 2d, 3d, 4th, and 5th days of October, 1871, and continuously for several months prior thereto.

Interrogatory 4. If, in answer to interrogatory 3, you say that upon the days mentioned in said interrogatory 3, you were in the town of Liberty, county of Liberty, State of Texas, state fully the character of the election held in said town upon said days; and, also, state fully the conduct, bearing, and manner of the people present at said election on said days.

Interrogatory 5. State whether or not there was a special military force organized by the governor of the State of Texas, and denominated special policemen, under arms, surrounding the polls and actively engaged in the interest of George W. Whitmore.

Interrogatory 6. State whether or not you know of any act of intimidation in this county, during said election, or during the months immediately anterior thereto by the adherents of W. S. Herndon.

Interrogatory 7. State whether or not said military police force exercised terrorism and intimidation over the people of Liberty County, and whether or not they were actively engaged during the registration of voters, in bringing and forcing to the polls, and fraudulently registering negroes under the age of twenty-one years. Also, state whether or not said police force, or any of the adherents of said G. W. Whitmore, caused negro women to dress as men, and fraudulently register and vote.

Interrogatory 8. State whether or not you were present at a political meeting, at which W. S. Herndon and George W. Whitmore addressed the people of Liberty County, said meeting held in the latter part of August, 1871. If yea, state what was the character, conduct, and demeanor of the people assembled to hear them speak, and whether said assemblage was orderly and peaceable, or otherwise.

Interrogatory 9. If any misunderstanding or altercation occurred between the speakers during said meeting, state fully all that did happen, and state fully whether or not the discussion did not continue after said altercation as peaceably, orderly, and quietly as if no such altercation had taken place.

Interrogatory 10. Do you know of any freedmen having been illegally registered? If yea, state their names, residences, and ages.

Interrogatory 11. You and each of you will state fully all you know of the temper, conduct, and bearing of the white people of Liberty County; whether they are quiet, orderly, and peaceable, or the reverse; and state fully your means of such knowledge.

Interrogatory 12. State any other facts pertinent to this cause, as fully and as particularly as if you had been specially interrogated thereto.

E. B. PICKETT,
F. F. FOSCUE,
Attorneys for W. S. Herndon.

Cross-interrogatories to be propounded to the above-mentioned witness:

Cross-interrogatory 1. Please state if you consider the said election was fairly conducted, in this: Did all the citizens vote as they desired, without being influenced by fraud, by threats of any kind, by changing the ticket of the voter on pretense of examining it? Don't you know that the tickets of colored men were changed from Whitmore to Herndon without the knowledge of the voters?

Cross-interrogatory 2. If you state that the police force did any act inconsistent with their duties, state specifically what the acts were.

Cross-interrogatory 3. If you state that colored men under the age of twenty-one years were fraudulently registered, state how you know that said persons were under the age of twenty-one years. And how do you know that they were *fraudulently* registered? In what consisted the fraud?

Cross-interrogatory 4. How old are you? How do you know your age? Where were you born? If you answer that you are of any age, and that you were born at any particular place, state how you know it. Who told you? Did your parents tell you how old you were, or did any other person? Do you believe what your parents tell you about when and where you were born?

Cross-interrogatory 5. State particularly all the facts of the altercation between said Whitmore and Herndon; what insulting language was used, and who spoke it first. While Whitmore was speaking did not Herndon call Whitmore a liar more than once before Whitmore replied?

Cross-interrogatory 6. When Whitmore replied, did he not do so by saying, "If I am a liar, you are another?"

Cross-interrogatory 6. What followed then? Did not Herndon then arise from his place, approach Whitmore, and in an angry manner put his hand upon Whitmore? State the facts fully.

Cross-interrogatory 7. Did not the sheriff command the peace, and did he or not arrest the parties?

Cross-interrogatory 8. Were there many persons present? Were there many ladies present? And was there much excitement among the audience?

Cross-interrogatory 9. Don't you believe, from the conduct of Herndon on this occasion, and the encouragement he received from the audience, that Whitmore was intimidated, and that he feared violence upon his person?

Cross-interrogatory 10. Have you not heard persons say since said altercation, that "Whitmore ought not to complain; he was permitted to finish his speech;" or words of similar import?

Cross-interrogatory 11. What woman was disguised as a man, and fraudulently registered and voted? What members of the democratic party or adherents of Herndon concocted this thing? Please state all you may know about it.

Cross-interrogatory 12. Have you not known citizens of Liberty County to be insulted because they were republicans? Don't you know the fact that a citizen, James Ridley, some time since, was not only threatened, but attacked, because of his being a republican?

Cross-interrogatory 13. Do you not know or believe, from circumstances and language, that the recent attack made upon said Ridley was because he was a republican? And have you not heard persons say that, if Ridley had killed his antagonist, he, Ridley, would have been riddled with bullets, or words of like import? State fully.

WM. CHAMBERS,
Attorney for Whitmore.

Testimony of JAMES G. MINTER, taken before Wilson Brooks, esq., a notary public of Liberty County, Texas, relative to the contested-election case of G. W. Whitmore *vs.* W. S. Herndon, now pending in the House of Representatives of the Congress of the United States.

Answer to interrogatory 1: I reside in the State of Texas and county of Liberty.

Answer to interrogatory 2: I reside about 200 yards north of the court-house and am a hotel-keeper.

Answer to interrogatory 3: I was in this county on the 2d and 3d, 4th and 5th days of October, A. D. 1871, and for several months previous thereto.

Answer to interrogatory 4: It was a quiet, peaceable, and orderly election; no disturbance of any kind.

Answer to interrogatory 5: There was a military force, organized by the governor of Texas, under arms, and were actively engaged in hunting up voters for G. W. Whitmore.

Answer to interrogatory 6: No.

Answer to interrogatory 7: Not that witness knows of.

Answer to interrogatory 8: I was present at the speaking alluded to in eighth interrogatory, and the citizens were orderly and quiet.

Answer to interrogatory 9: An altercation did take place between the speakers at this meeting, but in a few minutes order was restored and the speaking was continued quietly, and as though nothing had occurred.

Answer to interrogatory 10: No.

Answer to interregatory 11: The people of this county are orderly, peaceable, and quiet.

Answer to interrogatory 12: I am hotel-keeper at this place. Messrs. Whitmore and Herndon dined at my house on the day of the altercation, and made friends while there, and left there together.

In answer to cross-interrogatories propounded herein the witness, James G. Minter, states as follows:

To cross-interrogatory 1: The election was conducted fairly, and I know of no change having been made in any ticket of any voter; all voted as they pleased.

To cross-interrogatory 2: If the duties of the special police were to bring in the colored population to register and vote, they performed it well.

To cross-interrogatory 3: I do not know of any.

To cross-interrogatory 4: I am 38 years of age, was born in Tuscumbia, Alabama, my parents both told me so, and the family records show it. I believe my parents and the records too.

To cross-interrogatory 5: The altercation occurred in this way: Whitmore asserted that Herndon used his time at Jacksonville; Herndon denied it and Whitmore reasserted it; Herndon called him a liar; Whitmore reasserted again, and Herndon gave the lie the second time; then Whitmore replied in the same language; Herndon rose from his seat and they mutually took hold of each other; the sheriff interfered and peace restored.

To cross-interrogatory 6: Answered in the fifth interrogatory.

To cross-interrogatory 7: Sheriff commanded peace, but did not arrest the parties.

To cross-interrogatory 8: There was a respectable audience present, both white and black, but no ladies; very little, if any, excitement.

To cross-interrogatory 9: Herndon was not encouraged, and Whitmore had no cause to apprehend violence.

To cross-interrogatory 10: I have not heard any one say so, and Whitmore thanked the audience for their attention.

To cross-interrogatory 11: Witness knows nothing of this thing until the present moment.

To cross-interrogatory 12: I know of no one being insulted on account of political principles. I do not know that James Ridley was attacked because he was a republican.

To cross-interrogatory 13: Have not heard any such remarks.

[SEAL.] JAMES G. MINTER.

Testimony of H. H. DEVER, taken before Wilson Brooks, esq., a notary public of Liberty, relative to the contested-election case of G. W. Whitmore *vs.* W. S. Herndon, now pending in the House of Representatives of the Congress of the United States:

Answer to interrogatory 1: I reside in the State of Texas and county of Liberty.

Answer to interrogatory 2: I reside about eight miles from the town of Liberty; I am sheriff of the county and have my office at the court-house in the town of Liberty.

Answer to interrogatory 3: I was in this county on the 2d, 3d, 4th, and 5th days of October, A. D. 1871, and was in attendance upon the election held on those days in the discharge of my duties as sheriff of the county.

Answer to interrogatory 4: I saw nothing unbecoming on the part of the people; they voted quietly; I saw no riot, nor did I hear of any.

Answer to interrogatory 5: There was a military force organized by the governor, under arms, who were around the polls and elsewhere, and they were acting in the interest of George W. Whitmore.

Answer to interrogatory 6: I know of none.

Answer to interrogatory 7: I know that this military force were scouring the county and hunting up the adherents of George W. Whitmore, and were bringing them to register and vote.

Answer to interrogatory 8: I was present at the meeting referred to; the character of the people was becoming; they were orderly and quiet.

Answer to interrogatory 9: A misunderstanding did occur between the speakers at this meeting; but in a few minutes after order was re-

stored and the speaking was continued quietly and as though nothing had occurred.

Answer to interrogatory 10: I do not know, of my own knowledge, that any persons were illegally registered, only from hearsay.

Answer to interrogatory 11: As far as I know, the people conducted themselves in a peaceable and orderly manner.

Answer to interrogatory 12: In the election the tickets of Whitmore were card on striped backs, so that there could have been no chance of deceiving the colored voters as to their votes or tickets; the tickets of Herndon were all plain and white.

In answer to cross-interrogatories propounded herein, the witness H. H. Dever, states as follows:

To cross-interrogatory 1: My impression is that the election was conducted fairly, and I know of no change having been made in any ticket of any voter, and that every one voted just as he pleased.

To cross-interrogatory 2: I understand that the duties of the special police was to keep the peace; but, instead of that, they were engaged in hunting up the colored population of the county to make them register, and, during the election, in bringing them in and voting them.

To cross-interrogatory 3: Of my own knowledge I don't know of any that were fraudulently registered.

To cross-interrogatory 4: I am 38 years of age; I was born in Liberty County, Texas; my mother has told me that I was born on the 4th day of April, 1833, in Liberty County, and I believe her.

To cross-interrogatory 5: The altercation occurred in this way: Whitmore asserted that Herndon used his time at Jacksonville; Herndon denied it, and Whitmore reasserted with more emphasis; Herndon called him a liar; Whitmore reasserted again, and Herndon gave the lie the second time, and Whitmore replied in the same language; Herndon arose from his seat and they mutually took hold of each other; witness, as a peace officer, then separated them and peace was restored.

To cross-interrogatory 7: I, as sheriff, separated them and commanded the peace; did not arrest the parties; did not think it necessary.

To cross-interrogatory 8: There was a respectable audience present, but no ladies; the usual amount of excitement on such occasions.

To cross-interrogatory 9: Witness does not think there was any occasion for him to apprehend violence.

To cross-interrogatory 10: Have heard no such remarks.

To cross-interrogatory 11: Witness knows nothing.

To cross-interrogatory 12: Witness does not know that any citizen was attacked on account of being a republican; witness does not believe that James Ridley was attacked for the reason that he was a republican.

To cross-interrogatory 13: I do not know that James Ridley was attacked; witness has not heard any such remarks.

[SEAL.] H. H. DEVER.

Testimony of A. N. B. TOMPKINS, taken before Wilson Brooks, esq., a notary public of Liberty, relative to the contested election case of G. W. Whitmore *vs.* W. S. Herndon, now pending in the House of Representatives of the Congress of the United States:

Answer to interrogatory 1: I reside in the State of Texas and county of Liberty.

Answer to interrogatory 2: I reside in the northeastern portion of the county, about thirty miles from the town of Liberty. I was registrar of the county and had my office in the court-house.

Answer to interrogatory 3: I was in this county on the 2d, 3d, 4th, and 5th days of October, A. D. 1871, and was in attendance upon the election held on these days in the discharge of my duties as registrar of the county.

Answer to interrogatory 4: It was a quiet, peaceable, orderly election. No disturbance during the four days of election.

Answer to interrogatory 5: There was a military force organized by the governor, under arms, on duty during registration and election, and such was the quiet that not more than one or two policemen were on duty during the election at the polls; they were engaged in hunting up freedmen and bringing them to register and vote.

Answer to interrogatory 6: No.

Answer to interrogatory 7: Not that witness knows of. There was one or two colored voters registered under age, but afterward dismissed by the board of appeals. There was no woman disguised and registered within my knowledge.

Answer to interrogatory 8: Witness was not present when the altercation took place between the speakers.

Answer to interrogatory 9: Witness knows that the discussion went on quietly afterwards.

Answer to interrogatory 10: Answer in interrogatory 7.

Answer to interrogatory 11: The people conducted themselves in a peaceable and orderly manner. I was present during the entire registration and the greater portion of the election, and my means for knowing was very good.

Answer to interrogatory 12: Witness, under 12th interrogatory, would state this fact: that the vote of the two political parties was about in proportion to the resident voters registered in the county, and that the registry in this county greatly exceeds the resident voters owing to removals.

In answer to cross-interrogatories propounded him the witness, A. N. B. Tompkins, states as follows:

To cross-interrogatory 1: The election was conducted fairly, and I know of no change having been made in any ticket of any voter, and that every one voted just as he pleased.

To cross-interrogatory 2: I know of none.

To cross-interrogatory 3: Two were illegally registered and afterwards dismissed by the board of appeals, the fraud being under twenty-one years of age.

To cross-interrogatory 4: I am over 21 years of age; my precise age is not in the issue; I am a native citizen of the United States.

To cross-interrogatory 5: I was not in the house at the time of the altercation; I heard G. W. Whitmore resume and conclude his speech after the altercation.

To cross-interrogatory 6: Witness was not present during the altercation.

To cross-interrogatory 7: Witness was not present at the time alluded to.

To cross-interrogatory 8: A very respectable audience present; no ladies. About the usual amount of excitement that attend meetings of that character.

To cross-interrogatory 9: Was not present at the altercation; as I came in I heard the audience calling for Whitmore to conclude his speech.

To cross-interrogatory 10: Witness does not remember hearing such remarks being made.

To cross-interrogatory 11: Witness knows nothing of this kind.

To cross-interrogatory 12: I have no knowledge of the facts embraced in this cross-interrogatory.

To cross-interrogatory 13: I do not know.

[SEAL.] A. N. B. TOMPKINS.

Testimony of W. W. PERRYMAN, taken before Wilson Brooks, esq., a notary public for Liberty County, relative to the contested-election case of G. W. Whitmore *vs.* W. S. Herndon, now pending in the House of Representatives of the Congress of the United States.

To interrogatory 1 he answers: I live in the State of Texas and county of Liberty.

To interrogatory 2: I live in the western part of the town of Liberty, about a half mile from the court-house of said town.

To interrogatory 3: I was in the said county of Liberty on the 2d, 3d 4th, and 5th days of October, A. D. 1871, and continuously for several months prior thereto.

To interrogatory 4: I was present at the election, being invited and selected by the managers to represent the democratic portion of the people in seeing that the election was conducted fairly, in accordance with a circular of instructions issued by the governor of this State of Texas. I can state without hesitation that the election was conducted in as peaceable and orderly a manner as any election I have ever witnessed. There seemed to be a general disposition on the part of the people to have a fair election, and their bearing and manner was accordingly.

To interrogatory 5: There was a special military force, which was called special policemen, chiefly composed of freedmen of color, and who were actively engaged in the interest of G. W. Whitmore on the day of the election and previous.

To interrogatory 6: I do not know of any such acts of intimidation.

To interrogatory 7: During the time of the registration the police force canvassed this county, and, to my knowledge, in some cases ordered all freedmen from eighteen (18) years of age and upwards to present themselves for registration. I know of no negro women being fraudulently registered, or voted.

To interrogatory 8: I was present at a political meeting at which William S. Herndon and G. W. Whitmore addressed the people of Liberty County, and the assemblage was remarkably orderly and peaceable.

To interrogatory 9: An altercation did occur between the speakers which created some little excitement. Order was soon restored and the discussion proceeded as if no altercation had occurred.

To interrogatory 10: I do know of freedmen having been illegally registered, to wit: one Allen Perryman, a resident of Liberty County, aged 20½ years.

To interrogatory 11: I have lived in the county of Liberty six years. The white people here are remarkably quiet, orderly, and peaceable. In the matter of the election for members of Congress there seemed to be a universal disposition among them to have a free, full, and fair election. I do not know of any intimidation used to keep voters from the ballot-box. The election was pretty full, and the majority of those not voting were white men, the probable cause of which was their remoteness from the county-seat.

To interrogatory 12: I have answered this interrogatory in my answer to the eleventh.

In answer to the cross-interrogatories the witness, Colonel W. W. Perryman, states as follows:

To cross-interrogatory 1: I can state that the election was fairly conducted. The citizens voted as they desired. There was free access to the box. Each voter deposited his own ballot. I do not know of any change of tickets. The Whitmore tickets were card, or striped backs, and the colored voters would have known if their tickets were changed. The Herndon tickets were plain white paper.

To cross-interrogatory 2: I do not know what all the duties of the special policemen were.

To cross-interrogatory 3: I have a record of the age of Allen Perryman. He formerly belonged to me, and I raised him from a boy. He was registered and voted before he was twenty-one years of age.

To cross-interrogatory 4: I am forty-one years of age. I was born in South Carolina. "Mamma and daddy told me so; look in the book and you'll find it so."

To cross-interrogatory 5: Whitmore was making a statement as to some circumstance. Herndon contradicted him. Whitmore insisted. Herndon then called Whitmore a liar. Whitmore called Herndon another. Herndon then rose up and caught hold of Whitmore, not very violently. The sheriff then commanded the peace. Order was soon restored. Whitmore then finished his speech.

To cross-interrogatories 6, 7, and 8: I have answered these three interrogatories in my answer to cross-interrogatory 5.

To cross-interrogatory 9: There was a good many persons present. No ladies. I do not believe that Whitmore was intimidated. On the contrary he received fair and courteous treatment from the audience, and he so expressed himself.

To cross-interrogatory 10: I do not remember of hearing any such expression.

To cross-interrogatory 11: I know nothing of any woman's being disguised and fraudulently voted or registered.

To cross-interrogatory 12: I do not know of any citizens of Liberty County being insulted on account of their republican principles. I do not know of any such fact.

To cross-interrogatory 13: I don't know nor do I believe that any attack was made upon Ridley because he was a republican. I have never heard any person make use of any such remark.

[SEAL.] W. W. PERRYMAN.

Testimony of W. G. NOLAN, taken before Wilson Brooks, esq., a notary public for the county of Liberty, relative to the contested-election case of G. W. Whitmore *vs.* W. S. Herndon, now pending in the House of Representatives of the Congress of the United States.

To interrogatory 1 he answers: I reside in the State of Texas and Liberty County.

To interrogatory 2: I reside in the town of Liberty, and my office of principal of the public schools of Liberty County (also of Chambers, Hardin, and Polk Counties) is about three hundred yards from the court-house.

To interrogatory 3: I was in the county and town of Liberty on

the 2d, 3d, 4th and 5th days of October, A. D. 1871, and for several months prior thereto.

To interrogatory 4: The election held on these days in the said town of Liberty was remarkably peaceable and orderly.

To interrogatory 5: There was a military force organized by the governor, denominated "special policemen," actively engaged about the election.

To interrogatory 6: I know of no act of intimidation in this county during said election, or during the months immediately anterior thereto, by the political friends of W. S. Herndon.

To interrogatory 7: The "special police" were actively engaged during the registration of voters in bringing from different parts of the county freedmen to the polls.

To interrogatory 8: I was present at a political meeting at which George W. Whitmore and William S. Herndon addressed the people of Liberty County. The conduct and demeanor of the people assembled was orderly and courteous to both speakers.

To interrogatory 9: An altercation occurred between the speakers at said meeting in relation to a matter of fact; one asserting it and the other denying it. Whitmore was speaking and made the assertion; Herndon denied the assertion, and rose to his feet and approached Whitmore; they then appeared to take hold of each other's clothes simultaneously, but were immediately parted by persons on the stand. Mr. Whitmore then continued his address as before.

To interrogatory 10: I know of no freedmen being illegally registered.

To interrogatory 11: I know that the people of Liberty County are peaceable and orderly.

To interrogatory 12: During the said election I frequently visited the polls, and I have never found more than one policeman at a time at or near the polls. The others I have seen at all times of the day coming from the country, bringing with them squads of freedmen, procuring for them their tickets, and bringing them directly to the polls. Policemen were all colored men, with the exception of two or three.

In answer to the cross-interrogatories propounded herein, the witness (W. G. Nolan) states as follows:

To the cross-interrogatory 1. I believe said election was fairly conducted. I do not know that the tickets of any voters were changed or altered.

To cross-interrogatory 2. I don't know what duties were required of "special police."

To cross-interrogatory 3. I know of no one who was fraudulently registered.

To cross-interrogatory 4. I am fifty-four years of age; I know that fact from my "baptismal register;" my parents told me my age; I believed what they told me; I was born in Ireland.

To cross-interrogatory 5. I have stated in answer to direct interrogatory nine all that I know in relation to the altercation between Whitmore and Herndon. As I there stated, Whitmore asserted something as a fact. Herndon rose and interrupted him, denying his (Whitmore's) statement to be true, and then sat down. Whitmore again reiterated it emphatically. Herndon turned on chair facing Whitmore, and said, "You are a liar." Whitmore made no answer to that, but made again the same assertion. Herndon again said, "You are a liar." Whitmore, again turning to Herndon, (who was in his seat,)

said, "You are another liar." Herndon rose from his seat, and they both grappled instantaneously.

To cross-interrogatory 6. I have answered all that I know in the preceeding interrogatory.

To cross-interrogatory 7. The sheriff did command the peace; but I do not know whether he arrested the parties.

To cross-interrogatory 8. For Liberty County there was a respectable audience, about one-half of whom were colored. I saw no ladies present. For a moment there was some excitement among the audience, but not more than such an occurrence would ordinarily produce.

To cross-interrogatory 9. I do not believe that Herndon received any encouragement from the audience in the altercation with Whitmore; on the contrary, I think that his (Herndon's) conduct on this occasion was deplored and condemned by his political friends. And the leading political friends of Herndon demanded that Whitmore should proceed with his address without interruption, which he accordingly did; and, at the conclusion of his address, he thanked the people of Liberty County for the kind and cordial reception that they had given him, and for their attention to his address; apologizing to them, at the same time, for the unseemly and unfortunate occurrence between himself and his friend Herndon.

To cross-interrogatory 10. I have not heard any person speak of the occurrence since.

To cross-interrogatory 11. I have heard nothing, and I know nothing in relation to this question.

To cross-interrogatory 12. I have not known any person insulted for their political opinions; nor do I know that citizen James Ridley was threatened or attacked because of his being a republican.

To cross-interrogatory 13. I know nothing about the recent attack on said Ridley; nor have I heard any person say anything about what would have happened to him (Ridley) if he had killed his antagonist.

[SEAL.] W. G. NOLAN.

The State of Texas, County of Liberty:

In obedience to the subpœna hereunto attached and made a part hereof, the witnesses therein named, to wit, W. W. Perryman. H. H. Dever, A. N. B. Thompkins, James Minturn, and W. G. Nolan, personally appeared before me at the court-house, in the town of Liberty, on the 17th, 19th, and 20th days of February, A. D. 1872, and having first been duly sworn by me to answer the attached direct and cross-interrogatories, did depose and swear to them, and their answers so sworn to are above correctly written down and fully set forth over the signatures of the respective witnesses; all of said answers having been, by clerks in my presence, reduced to writing at the time and place aforesaid, and duly subscribed and sworn to before me by said witnesses.

To certify which I hereunto set my hand and affix my seal of office, in the town of Liberty, on this the 20th day of February, A. D. 1872.

[SEAL.] WILSON BROOKS,

Notary Public Liberty County, State of Texas, Precinct No. 5.

TYLER, SMITH COUNTY, TEXAS,
February 3, 1872.

SIR: You are hereby notified that I will begin taking evidence in the case in which you are contesting my right to a seat in the Forty-second Congress of the United States, in this city, before Hon. Z. Nor-

ton, judge ninth judicial district of Texas, or Matthew Wood, mayor of the city of Tyler, on the 22d day of February, 1872, and will continue to examine from day to day the following-named witnesses, to wit: Hon. S. D. Wood, Colonel H. C. Hunt, Mason Course, Dr. W. J. Goodman, A. F. Hunt, John Lucky, D. B. Lucky, H. C. Manning, Jeff. D. Burnes, W. L. T. Burnes, John D. Dorough, John A. Sanford, George Adams, George W. Bates, C. B. Bacon, Hon. Samuel L. Earle, H. V. Hamilton, R. B. Hubbard, John C. Robertson, J. H. Brown, J. P. Patterson, Tasco Shackelford, Thomas Graves, P. W. Rousseau, F. N. Gary, A. M. Murphey, Willis Roberts, Thomas J. Roberts, French Bill, Henry Askew, Casey Askew, J. W. Butler, John B. Douglas, Alf. Davis, Hon. James P. Douglas, McD. Torance, C. L. Collins, Lewis Case, Wyatt Copeland, George W. Whitmore, R. B. Long, Julius Clements, Horace Chilton, H. C. McFarland, C. M. Wiley, William Greene, Dr. Samuel A. Goodman, sr., Jo. P. Douglas, B. C. Rome, Harvey Yarborough, Henry Gillium, Dr. Matthews, K. P. Thweatt, and others. Said witnesses reside in Smith County, and the examination will commence on the day above specified, in the city of Tyler, or as soon thereafter as the said judge or mayor will take the testimony of said witnesses; will commence at 9 o'clock a. m., and continue until 3 o'clock p. m. each day, at the court-house of Smith County.

JOHN C. ROBERTSON,
STEPHEN REAVES,
Attorneys for W. S. Herndon, respondent.

Hon. GEORGE W. WHITMORE.

Service accepted on the within February 3, 1872.

G. W. WHITMORE.

TYLER, SMITH COUNTY, TEXAS,
February 3, 1872.

To the Hon. MATTHEW WOOD,
Mayor of the City of Tyler:

William S. Herndon, contestee, whose right to a seat in the Congress of the United States is contested by George W. Whitmore, by his attorneys, John C. Robertson and Stephen Reaves, have this day given notice to George W. Whitmore, contestant, in person, that he will, on the 22d day of February, 1872, at the court-house in Tyler, Smith County, Texas, before the Hon. Z. Norton, judge of the ninth judicial district, or Matthew Wood, mayor of the City of Tyler, examine the following named persons, on oath, as witnesses in his behalf, to wit: Hon. S. D. Wood, Colonel H. C. Hunt, Mason Course, Dr. W. J. Goodman, A. F. Hunt, John Lucky, D. B. Lucky, H. C. Manning, Jeff. D. Burnes, W. L. T. Burnes, John D. Dorough, John A. Sanford, George Adams, George W. Bates, C. B. Bacon, Hon. Samuel L. Earle, H. V. Hamilton, R. B. Hubbard, John C. Robertson, J. H. Brown, J. P. Patterson, Tasco Shakelford, Thomas Graves, P. W. Rousseau, F. N. Gary, A. M. Murphey, Willis Roberts, Thomas J. Roberts, French Bill, Henry Askew, Casey Askew, J. W. Butler, John B. Douglas, Alf. Davis, Hon. John P. Douglas, McD. Torance, C. L. Collins, Lewis Case, Wyatt Copeland, George W. Whitmore, R. B. Long, Julius Clements, Horace Chilton, H. C. McFarland, C. M. Wiley, William Green, Dr. Samuel A. Goodman, sr., Jo. P. Douglas, B. C. Rome, Harvey Yarborough, Henry Gillium, Dr. Matthews, K. P. Thweatt, and others.

You are therefore respectfully requested to meet me at the court-

house in the city of Tyler, on the 22d day of February, A. D. 1872, at 10 o'clock a. m. of said day, and to cause the said witnesses to come before you and answer such questions as may be propounded to them in regard to said election.

Yours, respectfully,

W. S. HERNDON,
By his attorneys, JNO. C. ROBERTSON and
STEPHEN REAVES.

MAYOR'S OFFICE, TYLER, *February* 22, 1872.

Be it remembered that on the 22d day of February, 1872, personally appeared before me W. S. Herndon, by his attorney, Stephen Reaves, and in conformity to the notices hereto attached, marked A, and produced the following witnesses, to establish his defense, of whose examination are as follows:

TASCO SHAKLEFORD deposed as follows:

Question. Where did you reside on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. In Smith County, in the State of Texas.

Question. How long have you resided in Smith County?—Answer. Twenty-two years.

Question. Are you a freedman?—Answer. I am.

Question. Were you at the election for Congressman in this district in October last?—Answer. I was.

Question. Did you vote at said election?—Answer. Yes; I did.

Question. Did any person or persons attempt to prevent you from voting as you pleased? If so, state who it was and what they said to you.—Answer. They did; it was a policeman, by the name of Charley Johnson. He told me that I should not vote for Captain Herndon, the democratic candidate.

Question. Did he make any threats as to what he would do if you did vote the democratic ticket?—Answer. He said, "I will follow you to the polls, and arrest you, if you vote for that ticket."

Question. Did said policeman tell you who to vote for, or say anything to you how you should vote?—Answer. He told me to vote with them; that I should vote with them; and they were all radicals and voted the radical ticket.

Question. Do you know of any radical or republican that was prevented from voting for who he pleased in said election?—Answer. I do not.

Question. Who did you vote for at said election, if you voted at all?—Answer. I voted for Captain Herndon, the democratic candidate.

his
TASCO + SHAKLEFORD.
mark.

SAMUEL L. EARLE, being sworn, says as follows:

Question. Where do you reside, and how long have you resided there?—Answer. I reside in the town of Tyler, Smith County, Texas. I have resided here for more than twenty-one years.

Question. Were you at the election for Congressman in the first congressional district of Texas, on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was present at each and every day of said election, in the town of Tyler, at the place of voting.

Question. Was said election a full, free, and fair election, or was there any intimidation or fraud perpetrated at said election?—Answer. To all appearances, it was a full, fair, and free election; and I did not see the least evidence of any fraud or intimidation perpetrated by either party.

Question. Do you know of any one entitled to vote who did not vote at said election?—Answer. I do not; but my impression is that Judge S. D. Wood, H. C. Hunt, and H. C. Manning did not vote. The reason they did not vote was on account of a misunderstanding between the above-named parties and Colonel G. W. Whitmore about a business transaction.

Question. What are your politics?—Answer. I am a member of the republican party, and never was a democrat.

Question. Who were the candidates of the respective parties at said election?—Answer. Colonel G. W. Whitmore was the candidate of the republican party, and W. S. Herndon was the candidate of the democratic party.

Question. Did you vote at said election? If so, for which one of the candidates?—Answer. I did, and voted for Colonel Whitmore.

Question. Do you think the proportion of votes cast, according to the ratio of voters, was as large as at any election heretofore?—Answer. My answer can only be an opinion. Never has there been an election in this county in which all the voters voted; but I do not think that I ever attended an election previous to this where as large a proportion of the voters did vote.

Question. Have you ever held any office since the close of the late war?—Answer. I held the office of chief justice of Smith County, Texas, under Governor A. J. Hamilton, the military governor of Texas, immediately after the surrender, and subsequently held the office of judge of the ninth judicial district of the State of Texas under the provisional government organized under the reconstruction laws of Congress.

SAM. L. EARLE.

JULIUS CLEMENTS, being sworn, deposed as follows:

Question. What is your name, and where do you reside?—Answer. My name is Julius Clements, and I reside in Tyler, Smith County, in the State of Texas.

Question. Did you hold any office during the months of September and October, 1871.—Answer. I was a member of the board of appeals, and one of the managers of the election.

Question. Were you present at the election held in Tyler, Smith County, Texas, on the 3d, 4th, 5th, and 6th days of October, 1871, for a member to Congress from the first congressional district of the State of Texas?—Answer. I was, and was one of the managers of said election.

Question. Was said election conducted fair, and in accordance with law?—Answer. It was, so far as I could observe.

Question. Was there any person refused the right to vote at said election whose name appeared on the registration list?—Answer. There was not.

Question. Did you see or hear of any fraud or intimidation being used or practiced at said election?—Answer. I did not.

Question. Do you believe that said election was a fair, free, and full expression of the wishes of a majority of the voters of Smith County?—Answer. I do.

Question. Are you a freedman?—Answer. I am, sir.

Question. Did you know or hear of any Ku-Klux organizations during the canvass or election in Smith County?—Answer. I did not, as I remember.

Question. Do you know of any person who was forced in any way to vote against his will?—Answer. I do not.

Question. What are your politics?—Answer. I belong to the republican party.

Question. Who did you vote for at said election?—Answer. For George W. Whitmore.

Question. Who were the respective candidates of the two political parties at said election?—Answer. Colonel Whitmore was the republican candidate and Captain Herndon was the democratic candidate.

JULIUS CLEMENTS.

Colonel H. C. HUNT, being sworn, states as follows:

Question. Where did you reside on the 3d, 4th, 5th and 6th days of October, 1871, and where do you now reside?—Answer. In the city of Tyler, in Smith County, in the State of Texas.

Question. To what political party do you belong?—Answer. To the republican party.

Question. Who were the respective candidates of the two political parties for Congressman in the first congressional district of Texas at the election in October, 1871?—Answer. George W. Whitmore was the republican candidate and W. S. Herndon was the democratic candidate.

Question. Were you at the election for Congressman in Tyler, Smith County, Texas, in October, 1871, during the days of election?—Answer. I was in the city of Tyler during the days of election.

Question. Was there, to your knowledge, anything that occurred at said election, or during the canvass, to prevent a free and full election by the people in Smith County?—Answer. There was nothing that I now remember.

Question. Do you believe that said election in Smith County was free, full, and fair?—Answer. I do. I think the vote was as full as is ordinarily polled, according to the population of the county.

Question. Do you hold any office under the United States or the State of Texas? If so, state what office or offices?—Answer. I do. I hold the office of assessor of United States internal revenue for the fourth district of Texas. I am also colonel of the twenty-ninth regiment of the State militia, and alderman of the city of Tyler.

H. C. HUNT.

W. L. T. BURNS, being sworn, states as follows:

Question. Where did you reside during the months of September and October, 1871, and where do you now reside?—Answer. I resided in Tyler, Smith County, Texas, in September and October, 1871. I now reside about four miles east of Tyler, but in Smith County.

Question. Were you at the election in Tyler, Smith County, Texas, on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was at and near the election all of those days.

Question. Who were the candidates of the two political parties at said election?—Answer. G. W. Whitmore was the candidate of the republican party and W. S. Herndon of the democratic party.

Question. Did you see or hear anything on that occasion to prevent a full, free, fair, and untrammeled vote of the people?—Answer. I did not.

Question. Do you believe that the vote polled at said election was a free, full, and fair expression of the will of the majority of the legal voters of Smith County?—Answer. I do.

Question. To what political party do you belong?—Answer. I am a Union man.

Question. Do you know of any person having been deprived of a vote by fraud or intimidation?—Answer. I do not.

Question. What office do you hold?—Answer. I am deputy clerk of the district court of Smith County.

Question. Is the registration list in your office?—Answer. It is.

Question. Does the vote polled at said election tally with the number of registered voters, or does it appear that there was more registered voters than there was votes polled?—Answer. I think there was, but not a great many.

Question. Can you explain the cause of such discrepancy?—Answer. It is in consequence of moving, deaths, &c., and some had reregistered, having lost their registration papers, as I was informed by the registrar and others.

W. L. T. BURNS.

FEBRUARY 23, 1872.

Colonel HARVEY YARBROUGH, being sworn, states as follows:

Question. Where do you reside, and how long have you resided there?—Answer. In Smith County, in the State of Texas, and have for over twenty-two years.

Question. Were you at an election held in Smith County, in the State of Texas, in October, 1871, for a member to Congress from the first congressional district of Texas?—Answer. I was.

Question. Who were the candidates of the two political parties at said election?—Answer. George W. Whitmore was the candidate of the republican party, and William S. Herndon was the candidate of the democratic party.

Question. From the best of your knowledge and belief, was the vote polled at said election a full, free, and fair expression of the will of a majority of the voters of Smith County?—Answer. As far as the voters at the election was concerned, I would say it was. I heard freedmen on my farm say that they were not coming to the election. I afterward heard them say that they did come and vote; that the police came after them and told them that if they did not come and vote that they would be punished. There was one freedman on my place that did vote the democratic ticket. I heard him say that divers other freedmen told him that if he did vote the democratic ticket he would be killed.

Question. Do you know of any freedman who voted at said election that was under twenty-one years of age?—Answer. There was one that I raised; his name is George Grant; the registration books show that he registered as a voter; I do not know whether he voted or not. He was twenty years old on the 29th day of June, 1871. I raised him and know his age. He was a freedman.

Question. Do you know for which one of the candidates the freedmen on your farm voted?—Answer. I do not, only from what they told me; they told me that they voted the radical ticket all except one, and he said he voted the democratic ticket. There were seven in all.

Question. Do you know of any intimidation or fraud being used or practiced by the supporters of W. S. Herndon to prevent any person or

persons from voting as they saw proper at said election?—Answer. I do not.

Question. With the exceptions mentioned in your answer above, do you not believe that said election was a full, free, and fair expression of the will of a majority of the voters of the county?—Answer. I do.

Question. Do you know of any Ku-Klux organization in Smith or adjoining counties?—Answer. I do not.

H. YARBROUGH.

TOM GRAVES, being sworn, states as follows:

Question. Where do you live, and how long have you lived there?—Answer. I live in Tyler, in Smith County, in the State of Texas, and have lived there about eight years.

Question. Are you a freedman?—Answer. I am.

Question. Were you at an election in Tyler, Smith County, in the State of Texas, in October, 1871, for Congressman for the first congressional district of Texas?—Answer. I was.

Question. Who were the candidates of the two political parties at said election?—Answer. Mr. Whitmore was the candidate of the republican party, and W. S. Herndon of the democratic party.

Question. Did you know of any unfairness on the part of W. S. Herndon, or any of his supporters, during the canvass or at said election?—Answer. I do not.

Question. Do you believe that the vote cast at said election was a full, free, and fair expression of the will of a majority of the voters of Smith County?—Answer. I do.

Question. Do you know of any Ku-Klux organization?—Answer. I do not. I never saw one in my life.

Question. Do you know of any person that was prevented from voting at said election for whom they pleased?—Answer. I do not. I never heard of any person that was prevented from voting at said election as they pleased.

his
THOMAS + GRAVES.
mark.

FEBRUARY 24, 1872.

ALBERT F. HUNT, being sworn, states as follows:

Question. Where do you reside, and how long have you resided there?—Answer. In Tyler, Smith County, Texas, and have resided here nearly two years.

Question. To which political party do you belong?—Answer. To the republican party.

Question. Do you now hold, or have you held, any office under the State, city, or National Government?—Answer. I am assistant assessor of United States internal revenue for the fourth district of Texas; also I was member of the board of appeals and judge of elections during the year 1871.

Question. Were you present at an election held in Tyler, in Smith County, in the State of Texas, on the 3d, 4th, 5th, and 6th days of October, 1871, for a member to Congress from the first congressional district of Texas?—Answer. I was present, and acted as one of the judges of the election during the whole time the polls were open.

Question. Was said election conducted fair and in the manner prescribed by law?—Answer. It was.

Question. Did you see or know of any person that was legally regis-

tered as a voter who was not permitted to vote at said election?—Answer. I did not.

Question. Did you vote at said election? If so, for whom did you vote?—Answer. I voted for George W. Whitmore at said election.

Question. Who were the candidates of the two political parties at said election?—Answer. W. S. Herndon was the democratic candidate and George W. Whitmore was the republican candidate.

Question. Was there not a split in the republican party in this county at the time of said election?—Answer. There was a disagreement between certain republicans in this county.

Question. Do you think the vote cast at said election was a full, free, and fair expression of the will of a majority of the voters of Smith County?—Answer. I do.

Question. Do you know of any fraud or intimidation being used or practiced at said election?—Answer. I do not.

Question. Did a freedman by the name of George Grant vote at said election?—Answer. He did.

Question. Is it not a fact that a great number of those who had registered some years since had moved out of the county, that others had died, and others, having lost their certificates of registration, registered again, thereby increasing the apparent number of registered voters in Smith County?—Answer. It is.

Question. Did you know of any Ku-Klux organizations in the county about the time of said election or during the canvass?—Answer. I did not.

ALBERT F. HUNT.

MONDAY, *February* 26, 1872.

MASON COURSE, being duly sworn, says:

Question. Where were you on the 3d, 4th, 5th, and 6th days of October, 1871?—Answer. I was in the room where the ballot-box was during the election for members of Congress, in the district court-room, in Tyler, Smith County, Texas.

Question. How did it happen that you were in the room where the managers and judges of the election were?—Answer. The two parties who were candidates at the election were each allowed a representative to be present with the judges of the election, in order to see that the election was a fair one.. I was selected by the democrats of this county to fill that office. This privilege was allowed by law.

Question. Who was selected by the republican party to fill that position?—Answer. Professor John Flynne.

Question. Were you present during the whole of said election?—Answer. I was.

Question. Was said election conducted fair?—Answer. It was.

Question. Were any persons who held registration certificates, or whose names appeared on the list of registered voters, refused the privilege of voting at said election?—Answer. There were none.

Question. Did you see or hear of any fraud or intimidation being practiced to prevent any person from voting as they pleased at said election?—Answer. I saw none, nor heard of none.

Question. Do you believe that the vote cast at said election was a full, free, and fair expression of the will of the majority of the voters of Smith County?—Answer. I do.

Question. Did you ever see a more quiet and peaceable election anywhere than the one held in October last for Congressman for this district?—Answer. I never did.

Cross-examined by contestant:

Question. When you speak of the peaceable, quiet election taking place here in October last, you speak of the matter directly at the polls, do you not?—Answer. I saw nothing but what occurred at the polls; being in the house all the time, I could see over the square.

Question. To which of the political parties do you belong, democrat or republican, and for which did you vote at the October election?—Answer. I am a democrat, and voted that ticket.

Question. Did the democrats of this county and precinct organize themselves into what is known as democratic clubs, and authorize or send men around to know how they would vote before the election was held, and did they have or keep a register or book, in which they requested men to put down their names as democrats or republicans, prior to the October election?—Answer. They did organize themselves into what were called democratic clubs. To the best of my knowledge and belief, they did not send or request men as asked by contestant, neither did they keep such a book or register as he mentioned.

Question. Did you hear contestee and other democratic orators and speakers, during the late canvass for Congress, protest and condemn the fourteenth and fifteenth constitutional amendments, civil-rights bill, and reconstruction laws, as being unconstitutional, and unworthy of the regards of the people of Texas, or either of them?—Answer. I don't remember that I heard them denounce or condemn them in the terms mentioned. I have heard them pronounced unconstitutional, but did not hear them say that they were unworthy of the regard of the people of Texas.

Question. Were you in the late rebellion against the Government of the United States; and if so, how did you continue in the army?—Answer. I was in the Southern States during all that time. The war commenced when I was thirteen years old, and I belonged to the army from the time I was fifteen until eighteen years of age.

Question. Do you know how many registered voters there are in Smith County on the registration books?—Answer. I do not.

Question. Do you know whether the full registered vote of Smith County was polled at the election or not?—Answer. I know that it was considered by the judges of the election to be a full vote. I saw the names checked on the registration book, and it was a very full vote.

Question. Was the full strength of the democratic party in Smith County, in your opinion, voted?—Answer. In my opinion, it was.

MASON COURSE.

THE STATE OF TEXAS, *County of Smith,*
Mayoralty of the city of Tyler:

I, Matthew Wood, mayor of the city of Tyler, State of Texas, do hereby certify the eighteen foregoing pages to be the testimony of Messrs. Tasco Shakleford, Hon. Samuel L. Earle, Julius Clements, Colonel H. C. Hnnt, W. L. Burns, Harvey Yarbrough, Tom Graves, Albert F. Hunt, and Mason Course, witnesses in behalf of W. S. Herndon, esq., in the matter of the contested election for a seat in the Forty-second Congress of the United States from the first congressional district of the State of Texas, between George W. Whitmore, contesant, and William S. Herndon, and residents of the county of Smith, in the State of Texas, which witnesses were by me duly sworn at the time and place in the caption hereof, at the court-house in the city of Tyler, Smith County, and State of Texas; that the examinations, responses, and statements

of said deponents were reduced to writing by my order, and by the said deponents were sworn to and subscribed in my presence, at the place and times aforesaid.

In testmony whereof I, Matthew Wood, mayor in and for the city of Tyler, in the county of Smith and State of Texas, do hereunto set my hand, at the city of Tyler, in the State of Texas, this the 26th day of February, A. D. 1872.

M. WOOD,
Mayor of city of Tyler.

THE STATE OF TEXAS, *County of Smith:*

I, Henry C. Manning, clerk of the district court in and for the county of Smith, in the State of Texas, do hereby certify that Matthew Wood, whose signature appears to the foregoing certificate as mayor of the city of Tyler, is, and was at the time of signing said certificate, mayor of the city of Tyler, duly commissioned and sworn, and that full faith and credit are due to all his official acts as such.

To certify which I hereunto set my hand, and affix the seal of the district court, at office in Tyler, this the 26th day of February, A. D. 1872.

[SEAL.] H. C. MANNING,
Clerk of the District Court of Smith County, Texas.

THE STATE OF TEXAS, *County of Smith:*

Now comes contestant, in the case of Whitmore *vs.* Herndon, pending in the Congress of the United States, and states that notice was given contestee's attorney, on the 3d day of February, 1872, as notice and their acceptance of same will more fully show, that contestant would commence taking evidence in the above cause on the 19th day of February, 1872, at the court-house in the town of Tyler, before Z. Norton, judge of the ninth judicial district, or Matthew Wood, United States commissioner. Contestant further states that evidence was taken on the 19th, 20th, 21st, 22d, 23d, and 24th consecutively, as the evidence will show, before Judge Z. Norton, and that during said time contestee's attorneys proceeded to take evidence before Matthew Wood, contrary to the provisions of the law in such cases made and provided, without such notice as the law requires, and against contestant's interest, inasmuch as it was impossible for contestant to cross said witnesses. Contestant further states, that on the 26th day of February he notified contestee's attorneys that he would give way to them to take evidence. Contestee's attorneys proceeded to take the evidence of one M. Course, who was crossed by contestant. At the conclusion of this witness, Stephen Reeves, one of contestee's attorneys, stated that he would close the whole matter, so far as he was concerned. Contestant most seriously enters his protest against all the evidence taken before M. Wood, save and except that of M. Course, which he had a chance to cross on examination.

All of which is most respectfully submitted.

G. W. WHITMORE,
Contestant.

FEBRUARY 26, 1872.

THE STATE OF TEXAS, *County of Houston:*

This is to certify that John Blair and C. F. Wright, before whom certain witnesses have answered in the cause of G. W. Whitmore, contest-

ant, *vs.* W. S. Herndon, pending before the House of Representatives from the first congressional district of Texas, are both acting notaries public for the county of Houston, said State, and that their names signed and seals are their genuine acts. This being given in consequence of the dimness of the impression made by their seals.

To certify which I do hereunto set my hand and seal of the district court of Houston County, this the 13th day of February, A. D. 1872.

[SEAL.]

R. J. BLAIR,
Clerk District Court Houston County.
Per S. M. THOMPSON,
Deputy.

THE STATE OF TEXAS, *County of Houston:*

Be it known that we, the undersigned, George W. Whitmore, for himself, as contestant in the case of George W. Whitmore *vs.* W. S. Herndon, and William A. Stewart and D. A. Nunn, the duly appointed agents and attorneys for W. S. Herndon, do make, enter into, and sign and seal, with our scrawls for seals, the following agreement, to the end that we may expedite and facilitate the taking testimony in the said contested election case, with the least inconvenience and delay, and for the mutual benefit of both parties.

1. It is agreed that the said William A. Stewart and the said D. A. Nunn, or either of them, will represent, by authority of the said W. S. Herndon, the contestee, in accordance with the rules hereinafter prescribed.

2. The said George W. Whitmore stipulates and agrees that H. W. Moore shall be his duly authorized agent and attorney to represent him, the contestant, under the rules hereinafter prescribed.

3. It is agreed that each of the parties, or their said agents, may take testimony in the said cause in accordance with the rules prescribed by Congress; and further, that in case either party desires the testimony of any witness or witnesses in regard to the late election in the afore said county, he will write out his interrogatories to the witness or witnesses, and serve the opposing party with a copy of said interrogatories at least three days before the taking answers to the same, unless expressly waived and consented thereto by opposite party.

4. That the notice above spoken of may be served in person on the opposing party, or his agent, if in the county; if out of the county, then by leaving a copy at the place of business of the said opposing agent and attorney.

5. That each party shall, at the earliest practicable moment, furnish to the opposing party, or his agent, a list of the names of the witnesses that he expects or desires to examine.

6. And both parties hereto subscribing further agree to make any reasonable arrangement that will tend to the accomplishment of the purpose in view, to wit: making a full, fair, and just investigation into the late election in this county, to the end that justice may be done.

In testimony whereof we have hereunto set our hands and seals, using scrawls for seals, this the 20th day of January, 1872.

G. W. WHITMORE. [SEAL.]
H. W. MOORE. [SEAL.]
D. A. NUNN. [SEAL.]
W. A. STEWART. [SEAL.]

Contest pending in the lower House of the Federal Congress from the first congressional district of Texas.

GEORGE W. WHITMORE, contestant,
vs.
WM. S. HERNDON.

Hon. GEO. W. WHITMORE, *or his duly authorized agent for the county of Houston, State of Texas:*

SIR: You will take notice that we shall apply to the proper officers to have the following-named individuals, citizens of said county and State, examined as witnesses touching the election and incidents appertaining thereto, that occurred in this State and county for members to Congress, commencing on the 4th day of October and continuing for the four successive days.

Witnesses' names: E. G. Fuller, Wm. Allbright, Barton Clark, Van Clark, S. A. Miller, L. E. Downes, Wm. H. Cundiff, O. C. Aldrich, A. D. Elam, Dr. Frank Rainy, John McConnel, John C. Millar, Clinton Allen.

Interrogatory 1. Where were you, and each of you, during the late election for Congressmen in this district and throughout this State, say on the 3d, 4th, 5th, and 6th days of October, 1871? State whether you reside in the town of Crockett or in the country; if in the country, how far from the town of Crockett; what is your vocation or profession; what is your age; whether you have families; if so, how many children; and how long have you lived in this community.

Interrogatory 2. Where was the voting for Houston County conducted; in what town, and in what house, and how far from the business portion of the town; and why was this?

Interrogatory 3. How was said election conducted? Describe the situation around the polls; whether there were any armed men present; if yea, who were they by name, and in what capacity were they acting; who among them seemed to exercise the principal authority, and what did he and others of his kind do?

Interrogatory 4. State whether you saw any disturbances at said election, or in the town where the voting was going on; if so, state who created the disturbances, and in what way and manner the said disturbances occurred. State the conduct of the white people generally, and whom did they vote for, Whitmore or Herndon. State the conduct of the negroes, and for whom did they vote, Whitmore or Herndon. State the conduct of the policemen, and for whom did they vote, Whitmore or Herndon.

Interrogatory 5. State if you saw any democrat, or anti-radical, armed with deadly weapons during said election. State if you saw any radicals armed; if so, how many, and for what purpose, and how did they use their weapons, and what kind of weapons.

Interrogatory 6. State whether you, or either of you, were in a position to know whether the tickets were numbered; state whether they were or were not.

Interrogatory 7. Do you know of any intimidation, or tyranny, or oppression, or violence, toward any class of voters during said election? If yea, state what it was, who did it, who were the sufferers, and what political party did they belong to; for whom did they vote, Whitmore or Herndon. Did you know of one single act of violence or intimidation to the supporters of G. W. Whitmore?

Interrogatory 8. State all you saw and know of the manner in which said election was conducted, and of the treatment of the voters, or any portion of them, in each case giving the political *status* of the parties.

Interrogatory 9. Are you acquainted with the character of William V. Tunstall for truth and veracity in the community in which he lives? If yea, state whether that character be good or bad. From a knowledge of that character, would you believe him on his oath?

Interrogatory 10. If any one or more of you should say that you were subjected to indignities or injuries, give your age, state of health, and whether your conduct furnished any excuse for such improper treatment, and state that treatment in full.

Interrogatory 11. State if you know of any illegal votes given; if so, state whether for Whitmore or Herndon, and give the names of such illegal voters.

Interrogatory 12. State whether any citizens were intimidated and kept from the polls; if yea, state how it was done, and make an estimate of the number, and for whom would they have voted had they cast their votes.

Interrogatory 13. What was the conduct of negro boys under twenty-one years of age, in reference to said election; what was the conduct of negroes living in Trinity County about this election?

Interrogatory 14. State all you may know in reference to the conduct of said election, and incidents appertaining thereto, the same as if you had been particularly interrogated in reference thereto, but confine your general answers of this kind to this interrogatory.

D. A. NUNN,
W. A. STEWART,
For W. S. Herndon.

Cross-interrogatories:

Question 1. To all the witnesses touching the 1st interrogatory: Is each or either of you aware that W. S. Walker, chairman of the democratic executive committee of the State of Texas, issued an address to the democrats of the State to go to the polls the first day of the late election and camp there for the four election days? Is each or either of you aware that the democratic press indorsed this address, and that the democratic club of Crockett appointed a committee to raise bread and meat for man, and corn and fodder for horse, for that purpose? Is each or either of you aware of the fact that his excellency Governor E. J. Davis, in view of such address, issued an election order forbidding any and all persons from camping about the polls? Is each or either of you aware of any distinction in said executive order on account of politics, race, age, health, term of residence, or number of children?

Question 3. To all the witnesses touching the 3d interrogatory: Were there any armed men about the polls except policemen? Is there a police law in this State? Were these policemen placed at the polls to maintain peace and enforce the official order of the governor? Was one Joseph Gireoux in command of the forces so stationed? Did you see his written order from his superior officer to enforce the governor's election order to the letter? Did he exceed authority conferred upon him in said order?

Question 4. Did each or either of you bandy words with or curse the police during the election, or call the officer in command hard names, and threaten to see him after the election?

Question 5. Did either of you see any weapons in the hands of the police not authorized by law?

Question 6. Does each or either of you know that the law prohibits the numbering of the votes, to screen a timid voter from democratic wrath?

Question 7. Is each or either of you aware of a single instance of violence, or intimidation, or fraud, used by the old federal, whig, American, or republican parties? Has not the democratic party furnished all the material for the Golden Circle, Sons of the South, border ruffians, vigilance committees, Knights of Camelia, Invisible Empire, and Ku-Klux dens, mobs, repeaters, Tammany Halls, the confederacy, and every other organization over which Beelzebub presides? Does each or either of you belong to either of the above institutions now, or did you ever?

Question 9. Is not each and all of you aware that Judge Tunstall is perfectly indifferent as to your opinion of him, and that your bad opinion has been engendered by his late defense of himself against the malicious attacks of three of the most convenient democratic papers, and that two of those papers are dead, and the editor of the other gave him a libel, and that he proposed to prove all the allegations he made against the others, and the proof was never called for? Are you further aware that he can prove every allegation he ever made, and that nothing can be established against him as a man, a gentleman, a statesman, an Odd Fellow, a Mason, and a Christian? Will you do him the kindness to test this matter? Even the hanging of women.

Question 11. How did you get your information, and why did you not challenge such votes at the polls? How could you know for whom any one voted?

Question 12. How do you know this in each particular case; and if any democrats were kept from the polls was it not on account of the impression created by the reckless and unqualified statements of the democratic press? Were not most of the men kept from the polls loyal men, who dreaded the political tactics of the democracy, and who retained a very painful recollection of the several elections held from 1860 to 1865 in Dixie?

Question 13. State all the particulars, and how you got your information?

Question 14. To A. D. Elam, esq.: Were you a candidate for the legislature, in the district composed of Houston and Cherokee Counties, held at the same time of the congressional election, and did you not say in the post-office, in the presence of John Blair and others, in Crockett, during the canvass, that the democrats would stoop to anything to carry the pending election?

Question 15. Does each or either of you know that democrats brought and stacked guns in Crockett during the week preceding the said election? What became of those guns?

Question 16. To Dr. Frank Runy: Were you a candidate for legislature at the same time with Elam, and a supporter of Herndon, and did you proclaim that the State constitution was of no binding effect, having been obtained and ratified by fraud?

Answers of W. H. CUNDIFF.

Answer 1. I was in the town of Crockett during the election referred to, on the 4th, 5th, 6th, and 7th of October. I reside in the town of Crockett. I am a trader on lands, and anything else when I think it to my interest to engage in such trade. I will be forty-nine years old

to-morrow, 3d day of February. I have a family; have five children living and six dead. I have lived in Houston County since March, 1853.

Answer 2. The voting for Houston County was conducted in Crockett, in the Baptist church, about three hundred and fifty yards from the public square. The reason, I suppose, for holding the election in the Baptist church was, that on the first night of October there was a fire in the town of Crockett, destroying nearly all the business part of the town, and the Baptist church was about as convenient as any house that could be had to hold said election.

Answer 3. I was inside of the house, having been selected by the citizens, under an order of Governor Davis, to see that the election was conducted fairly. The voters were marched up to the polls, and when they voted passed off a different way from the way they came to the window at which the votes were received. I saw some armed men, styled policemen, about the polls; some were negroes; one was named Sam Smith, f. m. c.; Jim Davis, f. m. c. I think, on the last day, W. V. Tunstall was present. A white man, named Gireaux, was present all the time, a policeman, and seemed to take a great deal of authority, and allowed none to come to the polls only as he ordered or permitted.

Answer 4. I saw no disturbances during the election, as I was in the house. The conduct of the white people was good, the most of them voting for W. S. Herndon. The negroes, so far as I saw, conducted themselves very well, the most of them voting for G. W. Whitmore. From the color of the tickets, the policemen all voted for Whitmore.

Answer 5. I saw no democrat or anti-radical armed with deadly weapons during the election. I saw no radicals armed, except policemen. Their weapons were Henry sixteen-shooting rifles. I did not see them used, only in carrying them around.

Answer 6. I was in a position to know whether or not the tickets were numbered. They were numbered.

Answer 7. I know nothing about intimidation, violence, or tyranny, only from hearsay. I know of no intimidation or violence to any voter or voters of Whitmore.

Answer 8. The election was conducted fairly, and without partiality to any, either democrat or radical, so far as I had an opportunity to know.

Answer 9. I am only acquainted with the character of W. V. Tunstall, for truth and veracity in his neighborhood, from what his neighbors say about him, and that is, that it is bad.

Answer 10. I know nothing.

Answer 11. There was votes cast that I thought illegal, and the parties voted for Whitmore. There was a lot of votes cast that the names did not appear upon the list of registered voters; of these they were cast for Whitmore and Herndon; outside of these, votes were cast for Whitmore, which I contended were illegal, but the managers of the election allowed them to vote.

Answer 12. I know nothing.

Answer 13. I was satisfied that a boy under twenty-one years of age voted, and that some votes from Trinity County voted, all of which voted for Whitmore.

Answer 14. I know that there was great submission on the part of the democracy, fully intending to have no trouble about this election; and all noise or confusion during said election, known to me, was made by radicals.

W. H. CUNDIFF.

W. H. CUNDIFF answers:

Answer to first cross-interrogatory. I know nothing of any orders issued by W. S. Walker; know no one of that name, as now occurs to my mind.

Answer to second cross-interrogatory. There was no armed men about the polls that I saw, but policemen. There is a police law; I suppose the policemen were placed at polls to have order; that was my understanding. Joseph Gireoux seemed to be in command to enforce the orders of Governor Davis, or some other parties.

Answer to fourth cross-interrogatory. I did not.

Answer to fifth cross-interrogatory. I saw no weapons, only in the hands of policemen; I suppose such as are authorized by law.

Answer to sixth cross-interrogatory. I know nothing about the law in regard to numbering votes.

Answer to seventh cross-interrogatory. I was an old-line whig; know nothing about any of the other societies you allude to, nor do I belong to either of them, nor did I ever belong to them, except the whig party. I do not know that the devil presides over either of the parties or organizations you allude to.

Answer to ninth cross-interrogatory. I know nothing about whether Judge Tunstall is indifferent to the opinions of others or not, but would suppose that he was, from his general action. I have no malice nor feel no unkindness toward Judge Tunstall; I know nothing about libels being given; I know nothing about what you can prove; I do not know that you are an Odd Fellow or Mason, and I do not think, from your general action, that you are a Christian. I do not know that any loyal man or men was kept from the polls.

Answer to thirteenth, fourteenth, and fifteenth cross-interrogatories. I know nothing of guns being staked, or stacked, in Crockett, nor do I believe it was the case.

W. H. CUNDIFF.

STATE OF TEXAS, *Houston County:*

I, John Blair, a notary public in and for said State and county, do hereby certify that foregoing answers of W. H. Cundiff, the witness before named, were made before me, and were sworn to and subscribed before me by the said witness.

Given under my hand and official seal, this the 7th day of February, A. D. 1872.

[SEAL.] JOHN BLAIR,

Notary Public of Houston County, State of Texas.

GEORGE W. WHITMORE, contestant,
vs.
W. S. HERNDON.

Contest pending in the House of Representatives of the Federal Congress, from first congressional district of Texas.

Answers of witness L. E. DOWNES, who resides in Houston County, Texas, to accompanying interrogatories and cross-interrogatories, as a witness for W. S. Herndon, the sitting member.

Answer to first interrogatory. I was in the town of Crockett, county of Houston, State of Texas, (where I reside, and have resided for thirty-

two years,) during each day of the election. I cultivate some lots or small tracts of land adjoining said town, and attend to other matters in town. I am fifty-nine years old, and have a family, a wife and ten children, eight now living.

Answer to second interrogatory. The election was held and the votes taken for Houston County, at the Baptist church in the town of Crockett, said county, about three hundred yards. It was the most suitable place, in consequence of the burning of the town of Crockett on the 1st instant, (October, 1871.)

Answer to third interrogatory. I was not at or near the place of voting but a few times during the election. I went up to vote on the third day of the election in company with several other voters. When up near the house we were stopped in the street, (public highway,) and informed by one of the police, (I think it was Joseph Girioux,) and after waiting out in the street some half hour or more we were allowed by said Joseph Girioux to go in the yard of said church, but compelled to proceed to the place of voting in a line of three in abreast, and not allowed to go in the shade of some trees, in a few feet of where we were standing, and we were kept in that position for about one hour, and the heat of the sun was very oppressive during the time we were there. I do not know standing around and about the place of voting, with pistols and guns, that any person was armed except the police; there was several of them. A. T. Monroe *et al.* appeared to be acting as in authority, giving orders, &c., and as soon as one of us voted we were ordered to leave the place and to go home, and forwarded out of the yard immediately by said police.

Answer to fourth interrogatory. Some short time after Mr. Barten Clark voted, and while sitting on the gallery of the store of James E. Downes, some four hundred or five hundred yards from the place of voting, (only waiting for the stage to go home on, as he came up on said stage and had no other way of going home,) said Joseph Girioux, ——— police, came up to him (Clark) and demanded what he (Clark) was doing there, and had he voted, &c., and would have arrested him had I not interfered and told him (Joseph Girioux) what Mr. Clark was waiting for. He (Clark) is some near (70) seventy years old, and has been a citizen of Houston County, State of Texas, for some thirty-five years.

And on the next day of the election Mr. William Allbright, about (80) eighty years old, and has been a citizen of Houston County, State of Texas, for thirty-odd years, after voting, came to said store of J. E. Downes and sat down on the gallery, with his saddle-bags on his arm, to rest a few minutes before he started home; and while sitting there quiet and talking with some friends, (not concerning the election,) the said Joseph Girioux came over there where Mr. Allbright was, and arrested him (said Allbright) and compelled him (Allbright) to come in town, some several miles distant, to answer the charge, &c.

The white people behaved themselves well generally. I saw no disturbances among them whatever, only by the police arresting the good citizens, as before stated, and did not see or know of any resistance by the white voters during said election. The white people nearly all voted for Herndon. The negroes nearly all voted for Whitmore. They were quiet, as far as I know; the policemen I thought disposed to be overbearing, or rigid, in their manner. They voted for Whitmore.

Answer to fifth interrogatory. I did not see any democrats or anti-radicals armed with deadly weapons during said election. I do not recollect of seeing any radicals armed, except the policemen, sheriff, his deputies, &c. I do not know why they were armed, or for what purpose. The

most of the police had six-shooting pistols; some of them had guns of some description. I did not notice particularly what kind they were. I was not in and among the crowd of persons much, and did not notice what was going on only where I was.

Answer to sixth interrogatory. I do not know whether the tickets were numbered or not. I was not at the place of voting but once, and was then hurried away by the police, as before stated.

Answer to seventh interrogatory. I know that Mr. William Allbright was arrested by Joseph Girioux, for no cause or provocation, at some 400 to 500 yards from the place of voting, and compelled to come back to Crockett on another day to answer the charge for nothing. This William Allbright is the said Allbright heretofore spoken of. He (Allbright) voted for Herndon, and he (Joseph Girioux) voted for Whitmore. I do not know of any violence or intimidation to the voters or supporters of G. W. Whitmore, or any of the radical party.

Answer to eighth interrogatory. To this interrogatory I have answered, in the third and fourth, about all I know in the premises. Mr. Barten Clark and Mr. William Allbright both voted for Herndon.

Answer to ninth interrogatory. I do know something of William V. Tunstall's character from the citizens living in the same community where said Tunstall lives, and can say that his character is very bad. I could not believe him on his oath.

Answer to tenth interrogatory. To this I have answered nearly all in the third interrogatory. When I went up to vote, to be compelled to stand in the hot sun nearly one hour, when there was a shade in a few feet of where I was compelled to stand. I am nearly sixty years old, and myself, with some twenty other persons, were not allowed to go in the shade at the time. We all walked up as calm and serious as if going in church to preaching, and said or done nothing that would offend an angel.

Answer to eleventh interrogatory. I do not know of any illegal votes given.

Answer to twelfth interrogatory. I do not know, of my own knowledge, of any voter being kept from the polls during the election.

Answer to thirteenth interrogatory. I do not know anything of consequence in relation to the conduct of the negroes.

Answer to fourteenth interrogatory. I have stated about all I know in the premises.

L. E. DOWNES.

Answer to first cross-interrogatory. I do not know that W. S. Walker or any person else issued any order of the kind. The democrat club at Crockett did appoint a committee to prepare provision for the purpose of feeding the people that might come to the election from the remote parts of the county, and not having an opportunity to vote the first, and even the second day of such election, but I do not know that the matter was attended to. The people, especially the white voters, were driven out of Crockett by the police as fast as they voted, without regard to their age or the distance they had to travel in going home.

I do know that Governor Davis issued an election order to the police and other officers that might be in attendance at said election, to compel the voters to leave the place of voting; nothing about camping around, &c. I do not recollect that anything was said about politics, race, age, &c., but I do know that the negroes were allowed more privileges, and to remain on and about the streets in the town of Crockett,

much more than the white people were during the time of the election, by the police, as they are called here.

Answer to second cross-interrogatory. I did not notice for armed men particular, and did not know who the police were. particular, each one. I saw a man, called by name Joseph Girioux, *et al.* officiating, giving orders, &c., and armed with a six-shooting pistol, or perhaps two, and several other colored men standing around the place of election with pistols and guns. I do not know what said armed men were there for; everything and every person were quiet and peaceable each time that I was there. I did not see any written authority, and do not know that Joseph Girioux had any such order, or authority, and if he had I did not know the contents of the same.

Answer to third and fourth cross-interrogatory. I did not speak to said Joseph Girioux that I recollect of, except the time he tried to insult old Mr. Barten Clark about going home, &c., when I told him that Mr. Clark came up on the stage, and was waiting for the stage to go home on.

Answer to fifth cross-interrogatory. I saw several negroes, ten or fifteen, or perhaps more, come in the town of Crockett, during the time of holding said election, with guns. I do not know by what or whose authority.

Answer to sixth cross-interrogatory. I do not think any person, especially the negroes, would pay any attention to the numbering of the votes, and if the officers do their duty how can the democrats find out how any person votes, even if the tickets are numbered, if they were disposed to intimidate any voter.

Answer to seventh cross-interrogatory. I answer to this cross that I do not know anything about these matters. Perhaps you do. If you do not in this world, you will, no doubt, in the next.

Answer to ninth cross-interrogatory. I think that I do know of the Judge Tunstall, that his conduct is such that he is perfectly indifferent to anything, and there is nothing too mean for him to do, and perhaps he may find a few other persons that he might prove some very hard things by in this world. I do not know him as a Mason, or Odd Fellow, and as to a Christian I believe he professes to be, or did pretend to be, a Methodist, and I profess to be a Methodist myself, and have been living in this county many years, and never knew that said Tunstall was a member of any religious denomination. He did impose himself on and among the good people of this county when he first moved his family into the county, some between two and three years ago.

Answer to eleventh cross-interrogatory. I got the most of my information in relation to W. V. Tunstall's conduct, &c., from his nearest neighbors. They published him as a disagreeable, bad man, in the community where he lived, and asked him to leave said community.

I know nothing about any votes being challenged, and do not know that there was any challenged during the election.

Answer to twelfth cross-interrogatory. I do not know that any voters particular were kept from the polls and from voting, except some old men that lived at such a long distance from Crockett that they could not well get to the place of voting to cast their vote and then be compelled to leave the town without having time to rest, therefore declined coming to the election at all. I do not know anything about persons being killed on account of their politics, but have heard of several democrats being killed by the so-called radical police in Texas.

Answer to thirteenth cross-interrogatory. I cannot answer this. It is too uncertain. You do not say your information on any matter, or subject, therefore it may be that you wish to know something about burning of a school-house, &c.

Answer to fifteenth cross-interrogatory. I do not know that any guns were brought in the town of Crockett and stacked or left in Crockett prior to said election, and I am certain there was none.

L. E. DOWNES.

THE STATE OF TEXAS, *County of Houston:*

This day personally appeared before me, the undersigned authority, Lody E. Downes, a citizen to me well known, who, after being by me duly sworn, deposes and says that the foregoing ten and part of eleventh pages contain his answers to direct and cross-interrogatories in the case of George W. Whitmore *vs.* W. S. Herndon, a cause pending in the House of Representatives of the Congress of the United States, and that the same are correct and true, according to his best knowledge and belief.

To certify which, I, John Blair, notary public, do hereunto set my hand and official seal this the 12th day of February, 1872.

[SEAL.] JOHN BLAIR,

A Notary Public of Houston County, State of Texas.

GEORGE W. WHITMORE, contestant,
vs.
W. S. HERNDON.

Contest pending in the House of Representatives of the Federal Congress for Representative from first congressional district of Texas.

Answer of witness WILLIAM ALLBRIGHT, who resides in Houston County, Texas, to accompanying interrogatories and cross-interrogatories, by a witness for W. S. Herndon, the sitting member.

Answer to first interrogatory. I was in Crockett two days during the said election; could not get to vote first day and came back second day. Live five miles from town. I am a farmer. I am eighty years of age. I have a family—eight children. I have lived in this county thirty-four years.

Answer to second interrogatory. At the Baptist church, Crockett, about four hundred yards from the center of town; because the town had been burned by negroes.

Answer to third interrogatory. The election was conducted by so-called republicans and negroes mostly. There were armed men present; all called themselves policemen; I did not know any but Stanly. C. B. Keel, a republican, seemed to be head on the outside; he seemed to be showing the negroes how to vote.

Answer to fourth interrogatory. I saw no disturbance, except the policemen driving the white men out of town. I did not ask them how they voted.

Answer to fifth interrogatory. I did not see any but the policeman Stanly armed. No democrats or anti-radicals were armed.

Answer to sixth interrogatory. I was not.

Answer to seventh interrogatory. I don't know of any, only by the police ordering men out of town—myself for one. The police were all radicals. I do not know of any one.

Answer to eighth interrogatory. I was arrested without cause, simply for stopping at a store some five hundred yards from the polls. I voted for Herndon.

Answer to ninth interrogatory. I am not much acquainted with him.

Answer to tenth interrogatory. I was arrested without cause. I am eighty years of age.

Answer to eleventh interrogatory. I don't know of any.

Answer to twelfth interrogatory. I don't know of any.

Answer to thirteenth interrogatory. Don't know.

Answer to fourteenth interrogatory. I don't know anything more than what I have stated.

Answers to cross-interrogatories by WILLIAM ALLBRIGHT:

First cross-interrogatory. I never saw no such circular from Walker or any democrat.

Second cross-interrogatory. I don't know much about the matters, except as stated in direct interrogatories.

Third cross-interrogatory. I know nothing more.

WILLIAM ALLBRIGHT.

THE STATE OF TEXAS, *County of Houston:*

I, John Blair, a notary public of Houston County, and State of Texas, do hereby certify that the foregoing answers of William Allbright was acknowledged by the said Allbright, the witness, to be true and correct, and sworn to before me and subscribed by the said witness.

Given under my hand and official seal this the 9th day of February, 1872.

[SEAL.]

JOHN BLAIR,
A Notary Public of Houston County, State of Texas.

GEORGE WHITMORE, contestant,
vs.
WILLIAM S. HERNDON.

Contest pending in the lower House of United States Congress, from the first congressional district of Texas.

Answers of S. A. MILLER, a witness for William S. Herndon, to the accompanying interrogatories and cross-interrogatories, to wit:

To first interrogatory witness answers: I was present most of the time, and generally saw the other witnesses named there. I reside in the town of Crockett. I am an attorney at law, and am upward of sixty-six years of age. I have a family; three of my children are living. I have lived here upward of thirty-two years.

To second interrogatory witness answers: The voting was had in the Baptist church, in the town of Crockett, about three hundred yards from the business part of the town. It was held there because most of the business part of the town had recently been burned.

To third interrogatory witness answers: The election was conducted in a very extraordinary manner. The church stands within an inclosure, some twenty, twenty-five, or more feet from the street, that is, the nearest part of it. The election was held in the extreme northeastern corner of the building, opposite a window fronting the east, being the window furthest from the street, which runs east and west, and is south of the building. The entrance to the inclosure was over stiles. The doors of the building were closed and the stiles guarded, and the voters not allowed to enter either, except by permission of the guard. The guard consisted of one

Joseph Girioux, and one or two other white men, and a number of negroes, whose names I am not acquainted with. They were said to be policemen. Most of them were armed; some with pistols, some with guns. Joseph Girioux seemed to command the armed men, and to exercise the chief authority. Girioux would permit a squad of twenty, thirty, or forty voters to cross the stiles, and he marched them up three in abreast to within about ten feet of the window before described, where he would halt them, and permit them to go to the window, one at a time, and deposit their ballots. As soon as each one voted he was required to leave the inclosure. When one squad had deposited their ballots, another was marched in in the same manner. This Girioux, seeing voters in the street after they had voted, would order them very peremptorily, and in a rough, uncouth, and insulting manner, to leave. This deponent, among many others, was so ordered when he was on the opposite side of the street, some thirty or forty yards from the window where the voting was done. I replied, that I was not at the place of voting, but in the public street opposite, and that I lived in town, and therefore did not come within the meaning of the governor's proclamation. He repeated his order for me to leave, or he would have me arrested. I did leave, for fear of creating a disturbance of the election, but returned about the time the polls were being closed for the day, and saw the register, and got his permission to remain on the street.

To fourth interrogatory witness answers: I saw no disturbances at the election, or in the town while the election was going on. The conduct of the white people was generally most exemplary. They had determined beforehand to bear every indignity the police might inflict upon them rather than give the radical officials any pretense or excuse to declare martial law, or to throw out the vote of the county. The white men, with a few exceptions, voted for Herndon, and the negroes, almost unanimously, voted for Whitmore. The conduct of the policemen was arrogant and insulting. They generally voted for Whitmore.

To fifth interrogatory witness answers: I do not know that I saw any one, democrat or radical, armed, except the police, or those who were exercising authority. They, of course, were radicals.

To sixth interrogatory witness answers: I was not in a position to know whether the tickets were numbered or not. Heard it said they were not.

To seventh interrogatory witness answers: I do not know of any intimidation, tyranny, oppression, or violence, toward any class of voters during said election, save and except that the violent and tyrannical manner in which the said Girioux demeaned himself to the voters, backed, as he was, by his armed negro police, I believe, had the effect to intimidate some weak-kneed democrats and keep them from the polls. I do not know of one single act of violence or intimidation toward the supporters of G. W. Whitmore.

To eighth interrogatory witness answers: I have stated all I saw or know of my own knowledge, in answer to the preceding interrogatories.

To ninth interrogatory witness answers: I am acquainted with the character of William V. Tunstall for truth and veracity in the community where he resides. That character is very bad. From that character I could not believe him under oath.

To tenth interrogatory witness answers and says, he answered most of this interrogatory in his third answer, and further says he is not aware that he did anything to provoke the indignities of the said Girioux. Witness was demeaning himself peaceably and soberly, and talking in a quiet manner to his friends.

To eleventh interrogatory witness answers: He does not of his own knowledge. Witness heard that a good many negro boys under twenty-one years of age had been permitted to register and vote the radical ticket. One Tinch Hall was one of them; witness has known said Tinch Hall ever since he was a small boy, and can say he is satisfied he is not yet twenty-one years old.

To twelfth interrogatory witness answers: He does not know, except as stated in his seventh answer, as a matter of belief. If witness is correct in that belief, and he has scarcely a doubt of it, because many white voters of the county did not come to the polls, and witness knows not how else to account for their non-attendance, and because by attending they did not only have to brook the indignities before recited, but they had to incur the risk of being arrested, as Van Clark and E. G. Fuller, good, peaceable citizens, had been, for no offense known to affiant, except, perhaps, it was because they were democrats and Herndon men. If any were thus intimidated, of course they were democrats, and if they had been in attendance would have voted for Herndon, because these indignities had only been offered to democrats. Witness has no means of computing the number that were thus probably intimidated; perhaps there might have been forty or fifty.

To thirteenth interrogatory witness answers and says, he does not know further than already answered.

To fourteenth interrogatory witness answers: That he knows of nothing else connected with the election worth relating.

S. A. MILLER.

Sworn to and subscribed before me this 10th day of February, 1872.

[SEAL.] JOHN BLAIR,

Notary Public of Houston County, State of Texas.

Answers to cross-interrogatories, to wit:

To first cross-interrogatory witness answers: He saw some suggestion of the kind alluded to, but is not certain as to the source from which it emanated; witness does not know to what extent the democratic press indorsed it. I am aware that the democratic club at Crockett appointed a committee to prepare provisions and provender for such voters as lived in distant parts of the county and might find it necessary to remain all night, in cases where they could not get to vote on the day of their arrival, and in cases where they lived too remote to come and return the same day; witness is not aware that camping out was ever determined on, though spoken of, but before the election came on it was determined by the club at Crockett to entertain their friends from the country at their residences and not have them camp. Witness is aware of the governor's election order.

To third cross-interrogatory, (there being none marked second,) witness answers: He supposed all he saw armed were policemen, or in some way connected with the police. Witness thinks it more probable that policemen were paraded about the polls to provoke resistance and create disturbance, that the governor might have an excuse to declare martial law, and throw out the vote of the county. Girioux appeared to be in command. Witness saw no order. He did what I have stated in my answers-in-chief.

To fourth cross interrogatory witness answers: Witness had no words with the police, except what he has answered in chief as to his words with Girioux.

To fifth cross-interrogatory witness answers: No.

To sixth cross-interrogatory witness answers: He does not know the object of the prohibition, but believes the tendency of it is to lessen the chances of correctly purging the polls and detecting fraud.

To seventh cross-interrogatory witness answers: Yes, as regards the last-named party in Texas. Witness knows nothing of the Golden Circle, Sons of the South, Border Ruffians, or any other of the organizations named.

To ninth cross-interrogatory, (not observing any eighth,) witness answers: He supposes Tunstall indifferent to everything honorable. Witness's opinion of W. V. Tunstall is from his general reputation where he is known. He (witness) pays but little attention to his (Tunstall's) newspaper quarrels. Witness is not aware of what allegations Tunstall made. Witness has never known Tunstall as belonging to any of the societies named.

To eleventh cross-interrogatory (not seeing any tenth) witness answers: He does not of his own knowledge know of any illegal voting.

To twelfth cross interrogatory witness answers: He has stated all he knows about democrats being kept from the polls. I suppose every good democrat a loyal man. The days of Dixie are over.

To thirteenth cross-interrogatory witness answers: He knows nothing further of the particulars.

To fifteenth cross-interrogatory (the fourteenth not being propounded to this witness) witness answers: He does not.

Sixteenth cross-interrogatory not propounded to this witness.

S. A. MILLER.

Sworn to and subscribed before me this 10th day of February, 1872.

JOHN BLAIR,
Notary Public of Houston County, State of Texas.

STATE OF TEXAS, *County of Houston:*

I, John Blair, justice of the peace and notary public in and for said county, certify that S. A. Miller, one of the witnesses in the case of George W. Whitmore, contestant, *vs.* William S. Herndon, personally appeared before me and made the foregoing answers to the accompanying interrogatories and cross-interrogatories propounded him in said contest, and swore to and subscribed the same before me.

Witness my hand and official seal, at Crockett, this 10th day of February, A. D. 1872.

[SEAL.]

JOHN BLAIR,
Notary Public of Houston County, Texas.

GEORGE W. WHITMORE, contestant,
vs.
W. S. HERNDON.

Contest pending in the House of Representatives of Congress from first congressional district of Texas.

The answers of JOHN C. MILLAR, a resident citizen of Houston County, State of Texas, to interrogatories propounded to him and others, witnesses for W. S. Herndon, sitting member.

Answer 1. I was in the town of Crockett during the election inquired about, holden on the 3d, 4th, 5th, and 6th days of October, 1871. I reside in the town of Crockett. I am a merchant. I am thirty-six years

of age. I have a family—wife and two children. I have lived in this community twenty-one years.

Answer 2. The voting for this (Houston) county was conducted in the town of Crockett and in the Baptist church. It is about three to four hundred yards from the business portion of the town. This was because of the fire that consumed the town of Crockett on the night of the last day of September.

Answer 3. The church in which election was held was inclosed by fence. There were armed guards there called policemen, professing to act under the orders of Governor Davis. By their orders voters were admitted into the inclosure by the armed policemen in squads of twelve to fourteen, and were stopped at a drawn line. The armed men present that I noticed were one Giroux and negroes whose names I don't recollect. They were acting as policemen. Girony or Gireaux seemed to exercise principal authority, and one A. T. Monroe seemed to exercise some control over the police, and was the only one allowed the privilege of the inclosure that I saw, and he was a radical candidate for the State senate; and that A. D. Elam, who was a democratic candidate for the lower house of the State legislature, and present, seemed not to have the same privileges extended to said Monroe. After the voter deposited his ballot he was ordered to leave and not stop in the town of Crockett, except those who lived in the town.

Answer to the 4th interrogatory. After an experience of 21 years at elections in this place, I never knew a more peaceable and quiet election at the polls; and the only difficulties or disturbances that I saw or heard of was this said policeman Girony or Gireaux arresting one Van Clark, a peaceable and good citizen, and manacling the said Clark with handcuffs, with an armed force to assist him; and that the said Clark peaceably submitted to it, though all knew it to be unlawful and a flagrant outrage upon the liberty and constitutional rights of the citizen, when he (the said Clark) had committed no offense whatever against the laws of the land, and was peaceably and quietly sitting in Mr. John McConnel's blacksmith-shop in the said town. He (Clark) was thus manacled and carried in arrest across the public streets to the court-house. This occurred in my presence. He was tried before justice of the peace, and discharged, as he had committed no offense. I heard of Barton Clark and William Allbright and Mr. Fuller, three very old and decrepit men, being arrested by the said police or forced out of town. The only disturbances or intimidation that I saw or heard of proceeded from the unwarranted and usurped authority of Governor Davis's police. The conduct of the white citizens was characterized by the most humble submission to every tyrannical act of the said police, in order to have a quiet election, and to give the opposite party no excuse to cry out intimidation and fraud, which had become their familiar hobby. The white people expressed a universal determination to have a peaceable election, and only desired every man to vote as he pleased; and I saw no electioneering or working with voters except by the policemen and a few others of their party. The white people generally voted for Herndon, and will do the same thing again, and with an increased majority in my opinion. The policemen all voted for Whitmore, I presume, judging from their acts and associations. The general conduct of the negroes was very good, except the negro police that were controlled by this policeman Gereaux. The negroes generally voted for Whitmore, I presume.

Answer to 5th interrogatory. I saw no one armed except the said police, and they used their weapons as above stated.

Answer to 6th interrogatory. Don't know whether tickets were numbered; suppose they were, as it is usual; but having an armed police present, and being forced away as soon as I handed my ticket in, I could not positively say.

Answer to 7th interrogatory. I have answered this in my 4th answer and other answers, to which I refer.

Answer to 8th interrogatory. Answered in 4th interrogatory, except as to the *status* of the parties, and would say that in every instance of indignity to the voters, as above stated, the voters thus injured were democrats and supported Herndon. And in many instances I saw negroes from the country remain in the town and not molested, while white men were driven away or arrested.

Answer 9. I am acquainted with the reputation of William V. Tunstall for truth and veracity in the community in which he lives. I have been living here for twenty-one years. I never had any dealings with him, but from the report of old and good citizens whom I have known intimately and favorably, his character is worthless.

Answer 10. I do not complain of any special bad treatment to myself more than above described in the general conduct of the police.

Answer 11. Don't know of any illegal votes given.

Answer 12. Don't know about that.

Answer 13. Don't know, except that I heard of negro boys under twenty-one voting.

Answer 14. Refer to other answers for an answer to this.

JOHN C. MILLAR.

THE STATE OF TEXAS, *County of Houston:*

This day personally appeared before me, the undersigned authority, John C. Millar, a citizen to me well known, who, after being by me duly sworn, deposes and says that the answers, fourteen in number, on preceding pages, to accompanying interrogatories in the case of George W. Whitmore, contestant, *vs.* W. S. Herndon, are true and correct according to his best knowledge and belief.

To certify which, I, John Blair, notary public, do hereunto set my hand and official seal, this the 12th day of February, A. D. 1872.

[SEAL.] JOHN BLAIR,

Notary Public of Houston County, State of Texas.

GEORGE W. WHITMORE, contestant,
vs.
W. S. HERNDON.

Contest pending in House of Representatives of Congress from first congressional district of Texas.

Answers of JOHN C. MILLAR, of Houston, to cross-interrogatories propounded by G. W. Whitmore.

Answer to cross-interrogatory 1. I do not recollect seeing the address from Mr. Walker, as inquired about. Do not know whether such address, if issued, was indorsed or not. There was a committee appointed by the democratic club of Crockett to provide for the comfort and to feed the voters from a distance, many of whom had to ride twenty to thirty miles to enjoy the privilege of voting, but said committee did not perform their duty, because of Governor Davis's election order requiring every person to leave the town immediately after voting. I am aware

that Governor Davis issued such an election order, but am not aware that Governor Davis had any constitutional or legal right to drive freemen from their county town, as was done, especially as our constitution secures citizens from arrest in going to and returning from elections, except for breach of the peace or felony. The only distinction that I observed in the enforcement of said election order was that the said Girony or Gireux gave the negroes the preference in their admission to voting place, and allowed them to stay about town, it seemed, as much and as long as they pleased, while the whites were not allowed this privilege.

Observing no second interrogatory, I answer interrogatory 3 as follows: I saw no armed men except the police. There is a police law in this State, I suppose, as I saw some who claim to be policemen with special privileges. I suppose these policemen were placed there to enforce the official orders of the governor, but there was no necessity for armed men to regulate and control this matter, as there was no disposition on the part of the people to disturb the peace.

One Giroux seemed to be in command of the police and in full control, with A. T. Monroe, who was a radical candidate for State senator. I did not see his written orders, and, so far as I know, he may have acted under secret instructions that have not yet been published; nor did I know that a free citizen of the United States had to go to a French Canadian, who, I am informed, is not a naturalized citizen of the United States, to get permission to go to the polls to vote.

If Governor Davis authorized such conduct, it would show that a fair election was not what was desired by Governor Davis.

Answer 4. No; nor did I hear of any remark of the kind.

Answer 5. I saw no weapons on any except the police, and I am not able to say whether it was lawful for them or not to have weapons about the voting place.

Answer 6. I do not know whether the law was made to protect a timid voter from democratic wrath, or to enable the radicals to conceal the frauds by which, in this region, I have good reason to believe they aim to perpetuate their power.

Answer 7. I never knew of either the whig, old federal, or democratic or republican parties doing the mischief inquired about; nor have I ever known of such conduct till Gireaux and his party got control here at the election held here 3d, 4th, 5th, and 6th of October, 1871.

Answer 8. I doubt the propriety of the question about Beelzebub and his associates, but deponent thinks that his satanic majesty is very much flattered and assisted by William V. Tunstall, and others, working in harmony with him. I do not claim now, or at any time in the past, to belong to any of the institutions presided over by Beelzebub; nor do I belong to any secret political society or dishonest organization.

Answer 9. All men known as William V. Tunstall is in Houston County, of course, would be indifferent as to the opinion of gentlemen. My opinion was first engendered concerning the said Tunstall from the fact of his joining the church and becoming a preacher, and then marrying the daughter of Mr. Goodman, who owned some slaves, and after his death trying to take the slaves away from his mother-in-law, before the late war; and the said Tunstall failing to get the slaves from his mother-in-law, went off, and to this day Mrs. Goodman is not satisfied or reconciled to his conduct, and that his own brother, Thomas Tunstall, denounces him publicly right here as a rascal and a scoundrel; and that the said William V. Tunstall had gone to California, or some other place, with a lot of gamblers; and that he had honest parents, but his associa-

tion had destroyed his character. I don't know of any paper, or anybody else, giving him a libel; and what is more, I don't think any one ever will. I belong to the Odd Fellows' lodge, in the town of Crockett, and if Tunstall is an Odd Fellow, I don't know, and he is not recognized as such by our lodge. As to his Christianity, I can only say that he is not esteemed as a Christian by those of the church to which he professes to belong. As for his being a statesman, that is one crime I never heard him charged with. I don't know of his hanging any women, but he has cheated his wife very badly, I think.

Answer 11. One reason why illegal votes were not challenged at the polls was that no democrat was allowed to remain near the place of voting.

Answer to 12. It was the disposition of all the democrats to have a fair election, and that every man, white and black, democrat and republican or radical, should vote just as he pleased. I know of no one being kept from the polls except as above explained.

Answer 13. Answered in previous answers.

Answer 14. Not addressed to me.

Answer 15. The only guns that I know of being stacked in town just before the election were found just after the fire in the ruins of Billig's store, and he was a radical voter. These guns were Army guns, and excited some curiosity after the fire, and were generally supposed to have been deposited there for the purpose of being used by the radicals during the election, but of this I do not profess to know. The democrats stacked no arms in the town the week preceding the election so far as I know. I was then merchandising in the place. The democratic party contemplated raising no disturbance whatever, but, on the contrary, were determined to do all in their power for peace and a fair election. This I know from general conversations of many of the influential citizens.

JOHN C. MILLAR.

THE STATE OF TEXAS, *County of Houston:*

This day personally appeared before me, the undersigned authority, John C. Millar, a citizen to me well known, who, being by me duly sworn, deposes and says that the foregoing answers, in number fifteen, (15,) on preceding pages to cross-interrogatories propounded to him by George W. Whitmore, in the case of the contested election of G. W. Whitmore *vs.* W. S. Herndon, from the first congressional district of Texas, are true and correct to the best of his knowledge and belief. To certify which, I, John Blair, notary public, do hereunto set my hand and official seal this the 12th day of February, A. D. 1872.

[SEAL.] JOHN BLAIR,

A Notary Public of Houston County, State of Texas.

GEORGE W. WHITMORE, contestant,
vs.
W. S. HERNDON.

Contest pending in the lower House of the Federal Congress, from the first congressional district of Texas.

Answers of CLINTON ALLEN, a witness for W. S. Herndon, who is a citizen of Houston County, State of Texas, to interrogatories and cross-interrogatories propounded to him and other witnesses, herewith accompanying.

Answers to direct interrogatories:

Answer 1. I was in the town of Crockett every day during the late

election, on the 3d, 4th, 5th, and 6th days of October, A. D. 1871. reside 2½ miles from the town of Crockett; I am a farmer; I am near fifty-nine years of age; I have a wife and no children; have lived in this community twenty-two years.

Answer 2. The election was conducted in the Baptist church, about 300 to 400 yards from the business portion of the town. This was in consequence of the fire that had destroyed the town a few days before.

Answer 3. The church was inclosed; the guard had control of the inclosure. The voters were admitted at one gate and made to form a line, and after voting were ordered to the rear of the house, and out by way of another gate. The voters were let in and driven like a herd of beeves. There was an armed guard present, called State police; one of their names is Gereaux, as I understand, who seemed to control the other armed police. On the first day of the election, just before the polls were opened, I and two other white men and about thirty negroes had taken our position in front of the polls and inside of the inclosure, with a view of voting. This same policeman, Gereaux, ordered me out of the inclosure before the polls were opened. I told him I thought I had as much right there as he had. He said he did not want any quibbling about it, and for me to leave. I told him that I would obey his order during the election, and I went out of the inclosure. All the others were allowed to remain; and immediately after this I came up to Judge L. W. Cooper, a republican, and reported the occurrence to him. He replied that he did not know that it was mill-day, and he (Cooper) got out of his buggy and went into the inclosure and voted without any interruption from the police, and returned the way he went in, without being driven out at the rear gate. I came back on the second day of the election, and could not get to vote without pressing my way with difficulty through the gate, and therefore did not vote. I came the third day and witnessed the same sort of scrambling when the police would announce that voters could enter, and returned again the fourth day and voted for W. S. Herndon. When the said Gereaux let in as many as he wanted he would close the gate. The whites and negroes were indiscriminately mixed in the crowd, and all pressing to get to vote as early as possible. I often saw Gereaux stand in the gateway and stop white men, and take hold of negroes and tell them to come in. I saw negroes climb up on the fence and throw themselves on the white men in the gateway, and thus force their way in when the gate was fully occupied. I saw no act of the policemen to check such rude conduct, but on the contrary encourage it. I never saw a white man thus acting, but when the gate was occupied by the negroes the whites invariably waited their turn.

Answer 4. I saw no disturbances, except from the violent and overbearing conduct of the policeman. The white people and negroes were all peaceable and quiet, but the said police created several disturbances that I saw. In one case I saw Gereux arrest, in a rude and insulting manner, a very old and infirm man, by the name of Fuller, who had just voted, after standing in the bull-pen about two hours waiting for that purpose, and after voting went out into the public streets and sat down to rest. He was arrested for no other offense. He was perfectly quiet, and seemed exhausted. He had not been out of the voting more than about two minutes. I saw the said policeman Gireux arrest one Van Clark, and put iron handcuffs, and marched him across the public streets to the court-house. I saw Clark when he came into town, and saw him go up to the place where voting was going on, and heard him say he was in a hurry to go back home. It was not more than one-half hour from

this time till I saw him in handcuffs. He was arrested at McConnell's blacksmith-shop, and he had not hitched his horse, and was perfectly quiet, standing in the shop door when he was arrested. Gireux went up to him, (Clark,) caught hold of his coat collar, jerked him off the sill, and put the handcuffs on him. Clark never made any resistance or spoke, but cried like a child.

The white people generally voted for Herndon. Clark voted for Herndon; Fuller voted for Herndon. This I heard them say, and besides I gave them Herndon tickets.

The negroes generally voted for Whitmore. There were some negroes voted for Herndon, but they were few, I think. The policemen, I presume, voted for Whitmore.

Answer 5. I saw no democrat or anti-radical armed with deadly weapons. I saw no persons armed except those who claimed to be police, and another military force called the State guard. The State guards were principally negroes, and all were radicals.

Answer 6. I don't know whether tickets were numbered, as we were led up like sheep to slaughter, and driven off hurriedly after voting.

Answer 7. I know of no intimidation, violence, or other misconduct to any class of voters, except as described in foregoing answers, to which I refer for my answer to this; and that all proceeded from Governor Davis's chosen police. without any provocation or excuse on the part of the citizens. I did not know of one single act of violence or intimidation to the supporters of G. W. Whitmore. The democrats seemed determined to preserve the peace, and to do nothing by which the election could be impeached. I should not have borne and submitted to the treatment to which I was subjected, as above stated, but for this fact.

Answer 8. Refer to previous answers for my answer to this.

Answer 9. I am acquainted with the character of William V. Tunstall, from hearsay and from personal knowledge of him. His character for truth and veracity is bad. From that character I would not believe him on oath.

Answer 10. Answered in answer three, to which I refer, and my other answers. My conduct furnished no excuse for the indignities offered to me. I was standing quiet and peaceable at the time.

Answer 11. I heard of some negro boys under age voting, but don't know this to be a fact.

Answer 12. Don't know of any voters kept away and prevented from voting by intimidation.

Answer 13. I saw perhaps twenty negro boys in the voting crowd at the gate that I am satisfied were not twenty-one years of age; I saw a good portion of these go through the inclosure with voters; I presume they voted, though I could not see, as the people were kept away from the place of voting by the said police. I don't know anything of negroes voting from Trinity County; heard it said, but don't know the fact.

Answer 14. Answered in previous answers, to which I refer.

CLINTON ALLEN.

THE STATE OF TEXAS, *County of Houston:*

This day personally appeared before me, the undersigned authority, Clinton Allen, a citizen to me well known, who, after being by me duly sworn, deposes and says that the answers to direct interrogatories contained in foregoing five pages, in the case of George W. Whitmore *vs.* W. S. Herndon, a contested election in the House of Representatives from the first congressional district of the State of Texas, are true and correct, according to his best knowledge and belief.

To certify which I, John Blair, notary public, do hereunto set my hand and official seal this the 12th day of February, A. D. 1872.

[SEAL.] JOHN BLAIR,
A Notary Public of Houston County, State of Texas.

GEORGE W. WHITMORE, contestant,
vs.
W. S. HERNDON.

Contest pending in House of Representatives of the United States from first congressional district of Texas.

Answers of CLINTON ALLEN, a citizen of Houston County, State of Texas, to cross-interrogatories propounded by contestant.

Answer to cross-interrogatory 1. I don't know of the address from Mr. Walker as inquired about; I don't know whether it was indorsed by the democratic press. I know the democratic club at Crockett appointed a committee to make provision to feed the voters that might attend said election from a distance; I was one of the committee; one reason why we did not do so was that Governor Davis's order forbid us to do this, and we did not want to give any excuse for a difficulty, which we believed the radical party desired; there was an order issued by Governor Davis forbidding the citizens from remaining at the county seat after voting, and requiring them to return home to their usual employment; I don't recollect of any distinction as inquired about.

Answer to cross-interrogatory 3. There were no armed men about the polls except what is called police or State guard, so far as I know; there is said to be a police law in this State; I can't say that the police were placed at the polls to keep the peace, but according to my judgment were for the purpose of raising a row, and I am satisfied they tried to raise one with me without any provocation whatever; Gireux appeared to be in command; I did not see his written order.

Answer to cross-interrogatory 4. I did not call him hard names; did not curse him, but was seriously tempted to do so; I made no threats.

Answer to cross-interrogatory 5. I don't know what weapons the police are authorized by law to carry.

Answer to cross-interrogatory 6. I don't know that the law forbids the numbering tickets to secure a timid voter from democratic wrath.

Answer to cross-interrogatory 7. I never knew of any frauds in the conduct of the elections until the radicals got control of the ballot-box.

The democratic party may have furnished some of the material for Beelzebub's dominions, but I think the Loyal League and radical party of Texas has outstripped us so far in this matter of late that we can never expect distinction in his, Beelzebub's, dominions.

I never belonged to any of the organizations over which Beelzebub presided, nor to any of the societies named.

Answer to cross-interrogatory 9. I reckon Tunstall is indifferent to any one's opinion. I never had any opinion of him except that he was a rascal. One of the papers inquired about has been burnt, and many believe the town was burnt for the purpose of destroying that paper.

I don't know of any paper giving him a libel.

I am not aware that he can prove all the allegations he ever made, and may say he has made many he can't prove by a respectable man.

I am a Mason. So far as I understand Masonry he is no Mason. I

am a member of the Methodist church. I do not consider him a Christian.

I never heard of but one woman hung, and that was Mrs. Surratt, but Tunstall's wife, I should think, had as well been as married to him.

Answer to cross-interrogatory 11. I got all the information as above stated. Did not have the privilege of challenging illegal voters, as we were kept away from the place of voting. I could tell how votes were going by the color of tickets, and the radicals generally went to one particular house for tickets; and by hearing the people talk of how they would vote and how they had voted.

Answer to cross-interrogatory 12. Don't know of anybody kept from voting.

Answer to cross-interrogatory 13. Answered in other answers to which I refer.

Answer to interrogatory 15. Don't know of the democrats stacking any guns in Crockett during or preceding the election.

CLINTON ALLEN.

THE STATE OF TEXAS, *County of Houston:*

This day personally appeared before me, the undersigned authority, Clinton Allen, a citizen to me well known, who, after being by me duly sworn, deposes and says that the foregoing answer to cross-interrogatories in the case of George W. Whitmore *vs.* W. S. Herndon, for seat in the House of Representatives of the Federal Congress, from the first congressional district of Texas, are true and correct according to his best knowledge and belief.

To certify which I, John Blair, notary public of Houston County, State of Texas, do hereunto set my hand and official seal this the 12th day of February, A. D. 1872.

[SEAL.] JOHN BLAIR,

Notary Public of Houston County, State of Texas.

Answers of FRANK RAINEY to questions propounded by D. A. Nunn, esq., attorney for W. S. Herndon.

Interrogatory 1. Witness answers: Was in the town of Crockett, Houston County, Texas, on the 4th, 5th, 6th, and 7th days of October, 1871; reside in the town; am a practicing physician, thirty-five years of age; have a wife, no children, and came to this place in November 21, 1865; came to this county in October, 1858.

Interrogatory 2. The voting for Congressmen and members of the legislature, on the 4th, 5th, 6th, and 7th days of October, was conducted in the Baptist church, which is situated about three hundred yards from the public square of the town of Crockett. The election was held in this church, because the business portion of the town of Crockett had been destroyed by fire but a few days before, and the church was used as a matter of necessity.

Interrogatory 3. The election was rudely conducted; the polls were surrounded by armed policemen, white and black, all of whom seemed to be under the command of a stranger, whose name, I think, is Gereaux or Girux, an ignorant, brutal fellow, who paid no respect to age or infirmities. The church fronts on a street which runs east and west, and sits back about twenty feet from the street; is surrounded by a plank fence, with a small gate directly in front, through which the voters, both white and black, were crowded. People of both races, who were

from a distance, were naturally anxious to vote as early as possible, consequently they crowded each other in attempting to get inside the inclosure, where they were immediately formed by Gereaux into pairs, and marched up to the window, at which their tickets was received. Many decrepit persons, and many others, were often rudely accosted by this Gereaux, and told to "stand up closer." The witness appealed to Colonel A. T. Monroe, the republican candidate for State senator, and a supporter of Whitmore, and asked him to assist witness in getting an order from Mr. Platt, the president of the board of election, "to allow two black men and two white men to approach the polls together," and in this way stop the disgraceful scramble. He replied very emphatically, no! "first come first served;" that the blacks were ahead, and that he wanted them to hold the polls. Voters were insulted without cause by the policemen. The witness remembers one instance, in which Mr. Henry Kyle, a very quiet, inoffensive citizen, was insulted, rudely insulted, and without cause, by one of the policemen; and Mr. Kyle did not resent it, because he, like all of the white citizens, had determined to endure almost anything rather than have the polls disturbed. The witness and others had, during the canvass, previous to the election, advised the people to be prepared for all manner of indignities, but to pay no attention to anything the police might do, and to this advice the people manfully adhered.

Interrogatory 4. Saw no disturbance of any kind going on during the election. The white people polled over 800 votes for Herndon, and, perhaps, about 30 for Whitmore. The negroes were generally peaceable, and voted, with but few exceptions, for Whitmore. The policemen were rude, impolite, and insulting; they all voted for Whitmore. Gereaux handcuffed a quiet young man, who was on horseback, going off home, whose name is Clark; the latter had committed no offense.

Interrogatory 5. Witness saw no democrat or anti-radical armed on that occasion. Did not see any radical armed, except the policemen.

Interrogatory 6. Did not see any tickets numbered, but was told by one of the managers of the election that the tickets had been numbered.

Interrogatory 7. In witness's answer to interrogatories third and fourth, he spoke of the actions of the police, which actions witness thinks intimidated some white voters, supporters of Herndon, who, being of a timid nature, were afraid of a difficulty, which the police might force on the people. Mr. Benjamin Hancock declared that he would not come to the polls on that account; other names I do not remember who staid away from this cause. Mr. Jones (Englishman) was told by Colonel A. T. Monroe (republican) to vote for him (Monroe) or else he could take his "certificate of competency" away. Did not see or hear of any intimidation or violence toward any of Whitmore's supporters.

Interrogatory 8. Witness has, he thinks, fully answered all the questions in interrogatory eighth.

Interrogatory 9. Witness can say nothing favorable of William V. Tunstall, who he believes to be in bad repute with both political parties, and whose neighbors universally declare him to be of bad character, morally, socially, and politically. Witness has never heard anything good of this man, not even from his own brother; but, in justice, must say he (witness) has no personal knowledge of wrongs committed by W. V. Tunstall, except, perhaps, his oath as witness in a contested election case before the twelfth legislature, State of Texas.

Interrogatory 10. Witness was not disturbed during said election.

Interrogatory 11. Witness heard the names of several freedmen who

had voted for Whitmore who were under twenty-one years of age; made pencil-notes of the names of several, but lost them.

Interrogatory 12. Witness answered in interrogatory seventh.

Interrogatory 13. Witness answered in interrogatory eleventh. Only heard of negroes from Trinity voting; did not see them.

Cross-interrogatories:

Interrogatory 1. Witness answers that all intelligent men of this State know that the action of the chairman of the central executive committee, the press, and of the Crockett club, was taken prior to the proclamation order of Governor E. J. Davis; soon after which (issuance of governor's order) our people gave up the idea of coming to town to camp out, which, however, was only intended as a matter of convenience to those who lived in a distant part of the county and who were unable to pay hotel bills. The order of Governor Davis was evidently intended to accomplish some political object; he wished to goad the people to resistance so that he might declare martial law, but he most signally failed. The order said nothing about children or health.

Interrogatories 2–3. Witness answers: Saw no men armed except policemen. There is a police law in this State. These policemen were placed around the polls to prevent disorder, apparently, but did, in reality, cause the only trouble which we had during the election by (as witness before stated) intimidating voters, handcuffing and rudely arresting peaceable unoffending citizens. One Giroux was or seemed to be in command. Did not see his orders. Witness conscientiously believes that the man Giroux had secret orders to act exactly as he did, or else the man grossly abused the orders given him. Witness used no harsh language toward any policeman, as he had no occasion so to do, simply because he did not converse with them.

Interrogatories 2–5. Witness did see a negro with a citizen rifle, and the State law (police law) specifies no such weapon to be used by said police.

Interrogatories 2–6. Witness knows very well that the election law of this State does not plainly prohibit the numbering of tickets, but does not authorize it. Witness knows nothing about democratic wrath.

Interrogatory 7. Witness cannot call to mind individual instances of fraud, &c., by any of the named parties, except such as are mentioned in D. A. Nunn's interrogatories to witness. The democratic party has not furnished all the material for the orders or societies mentioned in interrogatory seventh, for the interrogatory asserts that these orders are presided over by his majesty Beelzebub, with whom the democratic party have no acquaintance. Witness never did belong to any of the orders mentioned.

Interrogatory 9. Witness would, in answer, like to know what the opinions of men in regard to William V. Tunstall has to do with interrogatories taken concerning a congressional election. Witness cares but little whether William V. Tunstall is indifferent or different from others. If witness has any prejudice against William V. Tunstall it was never engendered by malicious attacks of newspapers, but from a proper consideration of reports made against said Tunstall by numbers of men whose statements will not bear a reasonable doubt. Witness has never known any editor to give Tunstall a "*libill.*" The charges against his character were made *publicly* by journals, but said William V. Tunstall has never disproven any of them. Witness dislikes to say more, but the questions are put by or suggested by Tunstall himself, and will say that he (witness) is not aware that Tunstall can prove anything by repu-

table men in regard to his being (what he cannot help but know he is not) a gentleman, statesman, and Christian. Witness does not know anything about Masonry or the Odd-Fellows. Witness is asked to "test" the above matter; it can be as easily done as precipitating camphor in alcoholic solution. William V. Tunstall is not allowed to visit or associate with the families of any of the respectable people of this county. Now we all know that no community of any decency or intelligence will ever ostracise a gentleman, statesman, and a Christian. If William V. Tunstall ever hung any women witness does not know it.

Interrogatory 11. Witness does not exactly comprehend interrogatory eleventh.

Interrogatory 12. Witness does not believe that any voters who would support Whitmore were kept away from the polls. All of his supporters, except a few, cannot read. No loyal men were kept away, but their full force seemed to have turned out, whereas other voters did not.

Interrogatory 13. Witness got his information through the same channels that any reasonable being gets it, *e. g.*, by reading decent journals of all politics, conversing with the intelligent, hearing, seeing, &c.

Interrogatory 14. To A. D. Elam.

Interrogatory 15. Witness knows that no guns were brought into the town of Crockett for any special purpose just preceding the election. The only guns, in any quantity at any one place, was at the store-house of Mr. Billig, who was an avowed radical. These guns had bayonets attached, as I was informed. These guns were consumed by the fire on the 30th of September.

Interrogatory 16. (To witness direct.) I was a candidate for the legislature at the same time with Captain Elam, and we were both elected.

Respectfully,

FRANK RAINEY.

Witness never declared that the "constitution was of no binding effect, having been obtained by fraud," &c., but witness did say that the State constitution, although it is the law of the land and should be obeyed until legally changed, was framed by those who were not the representatives of the people, and, besides, it is very unjust in many of its provisions.

FRANK RAINEY.

Sworn to and subscribed before me this the 13th day of February, 1872. Witness my hand and official seal this February 13, 1872.

[SEAL.]

C. F. WRIGHT,
Notary Public, Houston County, Texas.

Answers of witness A. D. ELAM to direct and cross interrogatories in the matter of the contested election pending in Congress between W. S. Herndon and George W. Whitmore.

Answer to interrogatory 1. I was in the town of Crockett, Houston County, Texas, during the late election for members of Congress; that is to say, on the 3d, 4th, 5th, and 6th of October, 1871. I reside in the town of Crockett; I am a lawyer by profession; thirty-five years of age; I have a family and two children; have lived in this community eleven years.

Answer to interrogatory 2. The voting of Houston County was conducted at the town of Crockett, county-site of Houston County, in the Baptist church, about 300 yards from the business portion of the

town. This was in consequence of the destruction of the town by fire on Sunday morning, the 1st day of October.

Answer to interrogatory 3. The church was in an inclosure. The voters were admitted in squads of about fifty through a gate in front of the church and formed in columns of threes. They voted in the order in which they were formed, through a window in the eastern side of the church, and were then required to retire around the church and out through another opening in the fence, where an armed man stood, who ordered each elector who had voted to retire from the place of voting and from the town. There were about a dozen armed men present, of whom I only recollect the names of Giroux, two Stanleys, Skidmore, Keel, Davis, Lane, and Austin. Their principal business seemed to be to herd the voters within the inclosure, and to force those who had voted from the place of voting and from the town. Giroux seemed to exercise the principal authority. I have stated generally what he and others of his kind were doing.

Answer to interrogatory 4. I saw no disturbance at the place of voting or in the town among the electors. I was at the polls during the whole of the four days of the election while the voting was going on. The conduct of the police, or armed men purporting to be police, was very insulting to the white democratic voters. The conduct of the white people was quiet and orderly. They bore the insults of the armed men around the polls from a previous understanding to submit to every insult or indignity rather than have any disturbance at the polls. The white vote was nearly unanimous for Herndon. The negroes were allowed more privileges and liberties than the whites, and, under the circumstances, were entitled to credit for their orderly conduct, and they almost unanimously voted for Whitmore. The policemen were overbearing and insulting, and voted, so far as I know, for Whitmore.

Answer to interrogatory 5. I saw no democrat or anti-radical armed with a deadly weapon during the election. I saw about one dozen radicals armed with deadly weapons. Their purpose and use of them seemed to be to menace the white voters. They had citizens' rifles, Spencer rifles, and six-shooting pistols.

Answer to interrogatory 6. Just before the close of the election I was in a position to see whether the tickets were or were not numbered. I saw my own and two other tickets numbered before being deposited in the ballot-box.

Answer to interrogatory 7. I do know that the armed men around the polls attempted to intimidate and were oppressive and violent toward white men during said election. When white men would congregate around the entrance to the church inclosure they were frequently driven back by the armed men who controlled the election, and when the gate was opened to admit voters, white men were frequently shoved back to make room for colored voters to enter. I saw white men, who had not voted, harshly and insultingly ordered away from the polls. I saw an aged white man, named Fuller, who had just voted and left the church inclosure, rudely seized and arrested for no cause, either of word or act. This was all done by the armed men or police. The sufferers were whites, and belonged to the democratic party, and they voted for Herndon. I know of no single act of violence or intimidation toward a supporter of George W. Whitmore; and, as before stated, I was at the polls during the entire time of the voting.

Answer to interrogatory 8. The acts of the armed men around the polls were directed to the furtherance of the success of the republican candidates. Giroux, who seemed to be in command, frequently ordered armed men to report to A. T. Monroe, the republican candidate for the

State senate, and they were mounted and sent out of town. I being a candidate for the house of representatives, in the presence of Monroe, demanded of the said Giroux that a certain number of policemen report to me, claiming that one candidate should have as many privileges as another. My demand was treated with contempt. While squads of men were formed in column, in the broiling sun, the said Monroe was frequently permitted by said armed men to enter the church where the votes were being received, and interrupt the progress of the election for many minutes. Voters were spoken to and driven about like a herd of beeves. Of the many indignities I saw practiced by the armed men during the election, I never saw one directed toward a supporter of George W. Whitmore.

Answer to interrogatory 9. I am acquainted with the character of William V. Tunstall for truth and veracity in the community in which he lives; it is exceedingly bad. From my knowledge of his character, I certainly would be unwilling to credit any statement of Tunstall, though made on oath. His character in Cherokee and Anderson Counties, where he is well known, is no better than in the community where he now resides. I heard Governor E. J. Davis, in the town of Rusk, tell him, the said Tunstall, publicly, that there were fifty better men than he in the State penitentiary at Huntsville, and I have frequently heard Captain J. R. Burnett, republican, and now judge of district court of the —— judicial district of the State of Texas, say that he prevented him, the said Tunstall, from stealing one hundred dollars, while he, Tunstall, was acting as secretary of the late State convention.

Answer to interrogatory 10. I have no special grievances to complain of, other than the discrimination against me in the conduct of the election, and in favor of the republican candidate.

Answer to interrogatory 11. I was not allowed to be in a position to see the votes deposited until just before the close of the election, and consequently cannot state whether illegal votes were polled. Our State law requires the registration of voters, and I saw a number of colored boys registered. The former owners of some of these boys gave their ages as ranging from sixteen to nineteen years. One of these boys, formerly the property of J. H. Stuart, had his registration canceled, and stated that the colored people were told that all boys over seventeen were entitled to register; and I know that Giroux, heretofore referred to, who claimed to have been raised in Canada, and who had not been naturalized, nor had filed his intentions to become a citizen, as he himself admitted, was registered as a voter; and I know that the colored boys referred to were formed on the inside of the church inclosure with the qualified voters, and my recollection serves me that Giroux deposited his ballot when I did mine. Giroux claimed to be a Whitmore man, and I presume that the colored boys, if they voted at all, voted with the balance of their race for Whitmore.

Answer to interrogatory 12. I know that citizens were kept from the polls by intimidation. This was done by an order from the governor, impressing many with the belief that the intention was to produce a riot at the polls. I would estimate the number as kept from the polls at one hundred and twenty; they were democrats, and would have voted for Mr. Herndon.

Answer to interrogatory 13. I have already stated the conduct of negro boys. A number of negroes from Trinity County were here attempting to vote; I do not know if they voted. I know that Mr. Monroe, republican candidate for State senate, told them that all those who lived near the line of Houston were entitled to vote in Houston.

Answer to interrogatory 14. James Platte, republican, and an original Union man, was the registrar and president of the election board, and he stated to me that whenever he attempted to discharge his duty impartially that he failed to give satisfaction to the republicans; that the democrats had treated him with courtesy, and had given him no trouble whatever. During the last day of the election, Colonel James Davidson, chief of the State police, was present at the election in Crockett. On the 1st, 2d, and 3d days of the election only a part of the men claiming to be policemen were armed, except with six-shooters; but on the day that Davidson was present each man appeared armed with his rifle in addition to his six-shooter, and on this day a young man, named Clark, who was in the act of leaving town, and who had committed no offense, was arrested and handcuffed by two of these armed men; but the whites submitted even to this great indignity, determined as they were to have no disturbance or riot during the election. Clark was a democrat, and voted for Herndon.

Answer of witness to cross-interrogatories:

Answer to cross-interrogatory 1. I am aware that the chairman of the democratic executive committee issued the address referred to. I am aware that this address was indorsed by the democratic press of the State. I am aware that the democratic club of Crockett appointed a committee to raise food for man and horse to carry out the suggestions of this address. I am aware that what was called an "election order" was issued by Governor E. J. Davis forbidding persons from congregating, from shouting, from jeering, or remaining at the county seat, and requiring the electors to return to their homes and their usual employments, &c., &c., under heavy pains and penalties. I do not know that this order was issued in consequence of the address of Mr. Walker. No distinction was made in the order; but the distinction occurred in the instruments which the governor employed to execute the order. The law of Texas requires all the voters to go to the county seat to cast their votes. Our counties are very large, and voters frequently have to travel thirty or forty miles in order to reach the county seat. In consequence of the disasters of the late war many of our citizens are left destitute, and are not able to incur the expense of hotel bills; and, as these circumstances have heretofore kept voters from the polls, it was thought necessary to make provision for their accommodation.

Answer to cross-interrogatory 3. There were no armed men about the polls, except policemen, that I know of. There is a police law in this State. The conduct of the policemen indicated that they were not there to maintain order, but to create disturbances. One Joseph Giroux exercised command. I saw no written order of his, nor do I know that he had any to enforce the governor's order. He did exceed the authority conferred by the governor's published order.

Answer to cross-interrogatory 4. I frequently complained of the conduct of this fellow Giroux, and used to him rough language. I never threatened to see him after the election.

Answer to cross-interrogatory 5. I do not know that the police law prescribes the kind of arms that the police shall carry.

Answer to cross-interrogatory 6. I know that the law does not prohibit the numbering of the tickets of voters.

Answer to cross-interrogatory 7. I do not know of the existence of any federal, whig, or American party, and I have already instanced, in my answer to direct interrogatories, by republicans, many acts of fraud and violence. I do not know of whom the organizations referred to are composed; but if it is essential to prove that they are composed

of democrats, it is only necessary to summon Tunstall, and he will swear to it. I do not, nor ever did, belong to either of the organizations referred to.

Answer to cross-interrogatory 9. It has been so long since "Judge,' or Policeman, Tunstall has been recognized by any gentleman that, I apprehend, he considers their opinion of but little consequence. The prejudice I have against Tunstall is only that I hold against all worthless characters. I do not know, nor do I believe, that anybody ever gave Tunstall a "libel." I do not know, nor do I believe, that he can prove the assertions he has made about good citizens of Houston County. I do not believe that anything can be established in his favor as a man, a gentleman, &c. I do not know what he means by requesting me to test him. His character has long ago been tested by those who know him, and it is such as I have portrayed.

Answer to cross-interrogatory 11. I was not permitted by the police to be in a position where I could challenge illegal voters. I have not claimed to know how individuals voted, only generally.

Answer to cross-interrogatory 12. I have already stated the reason why democrats were kept from the polls. If by loyal men is meant republicans, I do not know of one in the county remaining away from the polls.

Answer to cross-interrogatory 13. I do not know what you refer to in this interrogatory.

Answer to cross-interrogatory 14. I was elected a representative to the State legislature at the same time with the congressional election. I never stated to Colonel Blair or any other person that the democrats would stoop to anything to carry the election. In referring to Governor Davis's election order, and the expected presence of an armed police at the polls, I did say that the democrats would submit to almost anything; that we would "stoop to conquer."

Answer to cross-interrogatory 15. I do not know that democrats brought and stacked guns in Crockett. Our merchants are in the habit of keeping guns for sale, and the fire destroyed such guns as were in town.

A. D. ELAM.

THE STATE OF TEXAS, *County of Houston:*

Sworn to and subscribed before me this the 13th day of February, 1872.

Witness my hand and seal of office this February 13, 1872.

[SEAL.] C. F. WRIGHT,

A Notary Public for Houston County, Texas.

GEORGE W. WHITMORE
vs.
W. S. HERNDON.

Contested election case pending in the House of Representatives of the United States.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Be it remembered that at an examination of witnesses begun, held, and concluded on the 17th day of February, A. D. 1872, the within deposition was taken in pursuance of the agreement hereto annexed, and at said examination did personally appear John Hancock, at my

office, No. 412 Fifth street, in the city of Washington, in said District, to testify on the part and behalf of W. S. Herndon, in a certain contested election case now depending in the House of Representatives of the United States, wherein George W. Whitmore is the contestant and W. S. Herndon is the sitting member.

GEORGE W. WHITMORE
vs.
W. S. HERNDON.

Election case pending in Congress of United States, February 17, 1872.

It is agreed by and between the parties to this contest that the three days' notice required before taking the testimony of John Hancock as a witness is hereby waived, and no exception taken on this account.

H. E. PAINE,
Attorney for G. W. Whitmore.
W. S. HERNDON,
Contestee.

GEORGE W. WHITMORE
vs.
W. S. HERNDON.

Contested election case pending in the House of Representatives of the United States.

JOHN HANCOCK, resident of the State of Texas, but temporarily in the District of Columbia, a witness of lawful age, being produced, sworn, and examined on behalf of the sitting member, W. S. Herndon, in answer to the following questions, on oath, says as follows:

Question 1. Are you acquainted with George W. Whitmore, and if so, how long have you known him?—Answer. I am acquainted with him eleven or twelve years, may be longer.

Question 2. Do you know whether he ever served as a member of the legislature of the State of Texas, or as an officer of any other State in the United States, and if so, when he so served and in what capacity?—Answer. I know that he, George W. Whitmore, served as a member of the legislature of the State of Texas in the winter of 1861, commencing January, 1861. I know he so served, because I was a member of the same house with him.

Question 3. Was any oath required to be taken by members of the legislature of the State of Texas at the time of which you speak; if so, what character of oath?—Answer. Yes; there were two oaths required to be taken by the members of that legislature. On their assembling they were required to take an oath to support the constitution of the United States and the State of Texas, &c. Subsequently, some time in March, 1861, they were required to take an oath to support the constitution of the Confederate States of America.

Question 4. State whether or not George W. Whitmore took the oath to support the constitution of the Confederate States and of the State of Texas at the date of which you speak, March, 1861, and whether that was before or after the date when Texas seceded from the United States, and your means of information; and if you have any documentary evidence touching this point, please attach it to your answer, with some reference to designate the same.—Answer. I was not present when the

oath was administered to George W. Whitmore, and cannot, of my own knowledge, state whether he took the oath of allegiance to the constitution and laws of the Confederate States of America, but I saw him serving as a member of that legislature, and know that the oath was required to be taken of the members who continued to serve as such. I also see, from the journals of the house of which Whitmore was a member, that he, with others, also members of the lower house of the legislature of the State of Texas, took the required oath on the 18th of March, 1861, after it was contended that Texas had seceded from the United States.

The journal referred to will be found on the journal of adjourned session of the legislature of the State of Texas of 1861, pages 125 and 126. There are also in the same journal, to wit, on pages 132, 134, 136' 144, 206, and 211, to be found evidence that the said Whitmore continued to be a member of said house until its adjournment in April, 1861. I also saw affidavits of the members of the same house, to wit, Short and Foscue, whom I know to have been members, that they knew the fact that Whitmore did take said oath. I have these affidavits in my possession, and herewith present them as a part of my answer.

The journal is also herewith furnished, with the names of "Whitmore and Herndon" marked on it. Said affidavits are respectively marked A and B.

(The counsel for the contestant objects to so much of the foregoing answer as sets forth the information of the witness obtained from an examination of the so-called journal of the Texas legislature, on the ground of incompetency; also objects to said journal as incompetent evidence in the case; also objects to so much of the answer of the witness as sets forth information derived from the affidavits of third persons, and to the affidavits themselves, on the ground of incompetency.)

Question 5. State whether or not you were a member of the legislature of the State of Texas at the date, and afterward, of the passage of the ordinance of secession by that State; and if so, whether you continued to serve as a member in those bodies, or either of them; and whether any oath and what kind of oath were you required to take as such member. Please state fully your knowledge on this point.—Answer. Yes; I was a member of the legislature of the State of Texas at that time, but ceased to serve when the oath was required to be taken of allegiance to the constitution of the Confederate States of America. I refused to take the oath.

Question 6. State the circumstances under which you ceased to be a member of said body; whether the same was voluntary on your part, or any compulsion or force used by said body to expel you; and whether any other member ceased to serve in said body for like cause; if so, name such member or members.—Answer. After the so-called act of secession of the State of Texas, the members of the legislature were required to take an oath of allegiance to the constitution and laws of the Confederate States of America. This oath I refused to take. Upon such refusal my name as a member of the legislature was dropped from the list, or prohibited from being called. I know of but one other member of that legislature—John L. Haynes—who in like manner refused to take said oath. Both he and I were, from that time, disallowed our seats as members. My understanding at the time was, that all the other members of the legislature, save Haynes and myself, took the oath and retained their seats. This was, as before stated, in March, 1861, probably about the 18th, 19th, or 20th. Of course my refusal was

voluntary. No force was attempted to compel me to take the oath, other than the constraint of losing my seat if I did not.

Question 7. Does the journal of the proceedings of the legislature of the State of Texas, to which you referred in the previous answer, contain the proceedings, or any part thereof, of the eighth legislature of the State of Texas, prior to the 2d of March, 1861, the date of the so-called ordinance of secession of said State; and was George W. Whitmore a member of said body prior to said ordinance of secession?—Answer. No; the journals I refer to were the journals of the adjourned session, but in the same volume; they may be regarded as a part of the same journals; will be found what purport to be the proceedings of the house at a called session of the eighth legislature of the State of Texas, from its assembling in January, 1861, until it adjourned over, February, until the 18th of March of the same year. George W. Whitmore was a member of the house of representatives at that called session of the eighth legislature.

Question 8. Do you know whether George W. Whitmore has held any office under the United States since 1865, the close of the war, and if so, what office; and whether any oath was taken by said Whitmore as such officer, and what kind of oath; and if you have any documentary evidence or reference thereto, please attach the same to your answer and make a reference thereto.—Answer. Yes; he has held the office of register in bankruptcy since, I think, in some time in 1867. He was elected a member of Congress from Texas in 1869. I do not know of my own knowledge what oath he took, either as register or as member of Congress. I have in my possession a certified copy of the oath he took as register in bankruptcy, certified to be a correct copy of the original, by W. C. Robards, clerk of the United States circuit court for the western district of Texas, at Tyler, with the seal of said court attached, which is herewith handed as a part of my answer, marked Q. D. I also find in the Congressional Globe, of date March 31, 1870, page 2328, that George W. Whitmore, as member of that Congress, took the oath prescribed by act July 2, 1862.

Question 9. Have you examined the official returns of the vote for members of Congress in the first district of the State of Texas for 1869 and in 1871? If you have made such an examination, please state the total number of votes cast in said election for members of Congress in 1869, and the total number cast for members of Congress in said district in 1871, and the increase, if any, of the vote in 1871 over 1869.

(Question objected to by contestant's counsel on the ground that the returns themselves would be better evidence. The last question renewed, with the following addition: "And if you have the official returns of said election, or any documentary evidence thereof, please attach the same to your answer, and designate the same appropriately.")

Answer. I have examined the official returns of the election held for members of Congress held in the first congressional district of the State of Texas, in October, 1871, and find from those returns that George W. Whitmore received 10,209 votes, and that W. S. Herndon received 14,521 votes; scattering, 1. The returns are herewith handed, marked Z. I have examined a tabular statement of the election held in the same district for members of Congress in December, 1869, said tabular statement furnished by the present clerk of the house of representatives, which shows that, at the election of 1869, Whitmore received 8,456 votes; his opponents received 7,787 votes. I have not that tabular statement; it will be found in the hands of the clerk of the house.

(It is agreed by counsel for contestant and the sitting member that the tabular statement referred to shall be herewith attached, subject to any objection as to its competency.)

Witness resumes his answer. The increase of the total vote of 1871 over the vote of 1869 is, as I make it, 8,487 votes.

(The contestant's counsel objects to Exhibit Z, on the ground that the instrument is not authorized by any law of the State of Texas or of the United States; and also objects on the ground of incompetency to the witness's statements of information derived from said Exhibit Z, to the statement of the vote of 1869, and to the evidence of the witness stating information derived from that statement.)

Question 10. Do you know any reason for the large increase of the vote in said first district of Texas, 1871, over the vote cast in said district for member of Congress in December, 1869? If so, state the cause thereof.—Answer. There are two causes that contributed to greatly increase the vote throughout the entire State of Texas, given at the election in October, 1871, over the vote polled at the election in December, 1869. A great number of persons had not been allowed to register prior to 1869, and consequently were not eligible to vote. All these could or had the right to register prior to the election in 1871, and I am satisfied that the great body of them did so. The other main cause of increase referred to, that in the election of 1869 many persons were either dissatisfied with that mode of reconstruction, or so much in doubt as to the proper course to pursue, that they did not register and vote, though they might have done so; and a good many who had registered did not vote because the election in 1869 was no party contest under party organization, and the candidates before the people were not such as were calculated to bring them to the polls, especially with no great enthusiasm, when, by the regulations governing the election, the voting was at but one place in the county, the county seat, and many persons would have had to travel a very considerable distance to vote. I might add, there is also a considerable increase of population by emigration since 1869.

Question 11. State, if you know, to which political party contestant belongs, and what political party administered the State government of Texas in 1871, and whether the party administering said State government had the appointment of all the officers, such as judges of election and registrars, in 1871, and whether any military force or police force was used during the registration and election for members of Congress in 1871 in said State; and if so, the extent of such force, by whom commanded, and what they did during said registration and election, and whether the commander of such force issued any orders affecting said election; and if you have any such order please attach the same to your answer, and, if you know, state how said military force and said orders, if any, affected said election.

(Question objected to by contestant as calling for incompetent evidence.)

Answer. Mr. Whitmore calls himself a republican, and as such he is regarded where he lives. The State government of Texas has been in the hands of republicans, or those claiming to belong to the republican party. There are some district and county officers who are of the conservative or democratic party. The executive of the State claims the right and exercises the authority of appointing registrars of votes, supervisors of registration, the conductors and judges of election, and of removing them and appointing others to fill their places at his pleasure.

He, the executive, also claims the right of calling into the service police force, State guards, or even the militia of the State, when in his judgment it is expedient to do so. Under this exercise of authority, pending the election in Texas in 1871, he issued his proclamation, in effect placing the business of the registration and of the election under military control, with himself as commander-in-chief, and all subordinate officers, both civil and military, who were appointed by himself and removed at pleasure, to be subject to his authority and direction. Also, special police force called out in each county for twenty-four days preceding and during the election, which will probably more satisfactorily appear from the governor's proclamation and the order of his adjutant general herewith attached as a part of this answer, marked, respectively, 111 and 112. It is impossible for me to say to what extent the election was affected by these measures of the administration, but I have no hesitation in the belief that they were in no way detrimental to the interests of republican candidates.

Contestant's counsel objects to the last answer for incompetency.

Question 12. State whether you are an officer of the United States; if so, what office do you hold, and where do you reside when at home, and how long have you there resided?—Answer. I am a member of the present Forty-second Congress. I reside at Austin, Texas, and have resided there for over twenty-five years.

JOHN HANCOCK.

Subscribed and sworn to before me this 17th day of February, A. D. 1872.

I. L. JOHNSON,
United States Commissioner.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

I, Isaac L. Johnson, United States commissioner in and for the county and District aforesaid, do hereby certify that, in pursuance of the annexed agreement, the foregoing deposition was taken down and by me reduced to writing in the presence of and from the statements of the witness at the time and place designated in the caption thereof, and was then and there read over to the witness and by him subscribed in my presence and in the presence of H. E. Paine, esq., the counsel for George W. Whitmore, the contestant, and W. S. Herndon, the sitting member, who were then and there attending; the witness having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause, or in any manner interested therein.

[SEAL.]

I. L. JOHNSON,
United States Commissioner.

A.

THE STATE OF TEXAS, *County of Liberty:*

Personally appeared before me, Wilson Brooks, a justice of the peace and notary public in and for the county of Liberty and State of Texas,

F. F. Foscue, well known to me as a truthful man, who, being duly sworn, deposeth and saith that he was a member of the house of representatives of the State of Texas during the years 1860 and 1861, from the county of Cherokee of said State, and that George W. Whitmore was a member from the county of Harrison, and on or about the 18th day of March, 1861, the members of said body took the oath of allegiance and fidelity to the confederate government, and he saw George W. Whitmore take said oath, and he did so voluntarily, and that said Whitmore continued to serve as a member of said body up to the day of adjournment of his own free will.

F. F. FOSCUE.

Given under my hand and official seal of office this the 16th day of December, A. D. 1871.

[SEAL.]

WILSON BROOKS,
Notary Public, Liberty County, State of Texas.

B.

THE STATE OF TEXAS, *County of Shelby:*

I, D. M. Short, of the county and State aforesaid, do solemnly swear that I know George W. Whitmore; served with him in the lower house of the Texas legislature in the year 1859, at the regular session of the eighth legislature and during the special sessions of January and February, and the March session of 1861, when the State of Texas seceded from the Federal Union. That at the March session, after the people had ratified the ordinance of secession, all the officers of the State government, including the members of the legislature, had the option of subscribing to the new order of things or vacating their offices. The members of the legislature, if my recollection serves me, were called alphabetically and sworn in, in squads of eight, (8,) by M. D. K. Taylor, the then speaker of the house. The oath required of us was "to support the constitution and laws of the State of Texas and the constitution and laws of the Confederate States, so long as the State of Texas shall remain a member of that confederacy," and is to be found in Paschall's Digest, page 63. I am positive that every member of the lower branch of the legislature took that oath but John L. Haynes and John Hancock, who retired and vacated their seats. I know it for a fact that George W. Whitmore continued in his seat and acted as a member of that legislature until we adjourned *sine die*, and that when he qualified by taking the oath it was the subject of remark among the members. It was during one of those extra sessions that Whitmore's constituents petitioned him to resign, which he refused to do, alleging as a reason that the petition was the work of his political enemies, and not the voice of his constituents. There was a protest got up by about five or six members of the legislature against the action either of the legislature or convention in regard to secession, one of whom was George W. Whitmore, but I cannot say whether it was issued by them before or after we all took the oath, nor do I now recollect any more about it than substantially its contents.

D. M. SHORT.

THE STATE OF TEXAS, *County of Shelby:*

Before me, R. L. Parker, clerk of the district court in and for Shelby County, Texas, this day personally appeared D. M. Short, to me well known, and whose signature appears to the hereunto attached statement of facts, and who being by me duly sworn, says upon his oath that the said statement is true to the best of recollection and belief.

To certify which I hereunto sign my name and affix the seal of my office at Center, Shelby County, Texas, this December 23, A. D. 1871.

[SEAL.]

R. L. PARKER,
Clerk District Court, Shelby County.

Q. D.

Register's oath of office, filed this 9th day of September, 1867. Hiram Lorance, clerk of the district court United States, for said district, at Tyler.

Register's oath of office.

UNITED STATES OF AMERICA,

In the district court United States, for the western district of Texas, ss:

I, George W. Whitmore, of Tyler, in the county of Smith, and State of Texas, having been duly nominated and recommended by the Chief Justice of the Supreme Court of the United States, and appointed by the Hon. Thomas H. Duval, judge of the district court of the United States for the western district of Texas, as register in bankruptcy, under the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter; and also that I will not, during my continuance in office, be directly or indirectly interested in, or benefited by, the fees or emoluments arising from any suit or matter pending in bankruptcy in either the district or circuit court in this district. So help me God.

G. W. WHITMORE.

Subscribed and sworn to before me in open court this 24th day of August, A. D. 1867.

T. H. DUVAL,
United States District Judge.

I, W. C. Robards, clerk of the district court of the United States for the western district of Texas, do hereby certify that the foregoing two pages of manuscript, hereto annexed, contain a true and correct copy of the oath of George W. Whitmore, esq., as register in bankruptcy, from the original, now on file in my office.

In testimony whereof I have hereto affixed the seal of said court, at my office in Tyler, in said district, this 29th day of November, A. D. 1871.

[SEAL.] W. C. ROBARDS,
Clerk of U. S. district court, Western District, Texas.

GOVERNOR'S OFFICE, AUSTIN, *November* 15, 1871.

This is to certify that on a comparison of the returns of votes cast at an election held in the first congressional district of the State of Texas, on the 3d, 4th, 5th, and 6th of October, A. D. 1871, provided for by joint resolution of the legislature of said State of Texas, approved May 2, 1871, I find that the Hon. W. S. Herndon was duly elected to represent the said congressional district of the State of Texas in the Congress of the United States, for the term commencing on the 4th day of March, A. D. 1871, and ending on March 4, 1873.

In giving this certificate I wish to call attention to the attached certificated statement of the vote, including the returns rejected as well as those counted. Complaints have been made of fraud and violence affecting the freedom of the election in many of the counties, the returns of which have been counted, and at least one instance of violence during the canvass on the part of the candidate who receives this certificate, towards his opponent, is reported. In my opinion this was not a fair election in that district, and should be set aside; but I consider that I have no option under the act of Congress of May 31, 1870, section 22, but must give the certificate to the candidate having the largest number of votes returned here according to the form of law.

In testimony whereof I have caused the great seal of the State to be affixed at the city of Austin, the date herein first above written.

[SEAL.] EDM'D J. DAVIS, *Governor.*

By the governor:

J. E. OLDRIGHT,
Acting Secretary of State.

DEPARTMENT OF STATE, AUSTIN, *November* 15, 1871.

Statement showing the number of votes cast in the first district for candidates for Congress, at an election held therein on the 3d, 4th, 5th, and 6th of October, 1871.

Counties.	G. W. Whitmore.	W. S. Herndon.	Scattering.	Remarks.
Anderson	918	1,085	.....	
Angelina	73	350	.....	
Chambers	51	151	.....	
Cherokee	636	1,463	.....	
Hardin, (rejected)	.....	66	.....	Rejected because David Choate, a member of the board of appeals, was expelled by the registrar and one of the board of appeals, a colored man having no voice in the matter. A man by the name of Leonard was placed on the board of appeals in lieu of Choate, and in consequence of this fact, and the terrorism in Hardin County, no votes were polled for the republican candidate.
Harrison	2,216	1,116	1	
Henderson	270	737	.....	
Houston	912	877	.....	
Jasper	144	321	.....	
Jefferson	101	200	.....	
Liberty	303	390	.....	
Nacogdoches	429	1,063	.....	
Newton	97	195	.....	
Orange	25	126	.....	
Panola	284	932	.....	
Polk	120	350	.....	
Rains	10	210	.....	
Rusk, (rejected)	1,363	1,651	.....	Rejected on account of fraud and intimidation practiced upon colored and white voters. The election order was entirely disregarded, and numbers of men hung around the polls scrutinizing voters, hooting at and insulting those who chose to vote the republican ticket.
Sabine	229	271	.....	
San Augustine	396	433	.....	
San Jacinto	392	226	.....	
Shelby	358	641	.....	
Smith	1,470	1,649	.....	
Trinity	109	363	.....	
Tyler	105	315	.....	
Vanzandt	375	461	.....	
Wood	186	596	.....	
Total	10,209	14,521	1	

DEPARTMENT OF STATE, *Austin, Texas.*

I, J. E. Oldright, acting secretary of state for the State of Texas, hereby certify that the foregoing is a true copy taken from the records on file in this office.

Witness my hand and official seal at office in the city of Austin, the day hereinbefore first written.

[SEAL.]

J. E. OLDRIGHT,
Acting Secretary of State.

Circular.

HEADQUARTERS STATE OF TEXAS,
OFFICE ADJUTANT GENERAL AND CHIEF OF POLICE,
AUSTIN, TEXAS, *August* 9, 1871.

To the end that there may be no disturbance or intimidation at the registry of voters and about the polls at the coming election, the fol-

lowing regulations are established for the government of the officers of the election and of peace officers, State guard, and militia, on duty by order of the governor at such registry and election.

1. All persons coming to vote shall deposit their ballots with the least possible delay, and after this is done they are forbidden under any pretext to remain about the polls or at the county seat (unless this is their residence) during the time of election, but shall return to their homes and usual employment; and peace officers, State guard, or militia on duty at the polls, shall see that this regulation is complied with.

2. All persons are forbidden to shout, jeer at, or in any way insult or annoy voters, or candidates for office, during the registration and election, and peace officers, State guard, and militia on duty in any county where such disturbances may be attempted, are directed at once to arrest such persons, and to hold them to be dealt with according to the provisions of section 11 of the act entitled, "An act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot-box," approved August 15, 1870.

3. All gathering, combination, or assembling of persons in numbers, at or near the county seat during the time registration is being made, or the election is going on, and for the purpose of intimidating voters, is forbidden; and should any such gathering, combination, or assembly take place in any county, it shall be presumed that the same is for said purpose of intimidating voters, whatever might be alleged by such persons as the pretext thereof, and peace officers, State guard, and militia on duty in such county, are directed to disperse such persons; provided, however, that in this regulation it is not intended to interfere with persons peaceably and quietly waiting at the registration office or at the polls for their turn to register or vote.

4. All sale, barter, or giving away of liquors or intoxicating drinks at the county-seat, or within two miles of it, during the time the election is going on, either during day or night, is strictly forbidden by said act, approved August 15, 1870, and peace officers, State guard, and militia are directed to arrest persons violating this regulation, and to hold them to be dealt with according to law, and are further directed to close all establishments where such liquors or drinks are sold, bartered, or given away.

5. The carrying of fire-arms or deadly weapons of any description, unless by peace officers, State guard, or militia on duty as such by orders from the governor, is expressly forbidden, and all persons violating this regulation must be arrested and dealt with according to law provided in such case.

6. The governor, as provided by said act, approved August 15, 1870, (section 52,) hereby assumes command for and during the election of all peace officers in the State, including sheriffs and their deputies, and city or town police or marshals and their deputies, and those officers are hereby directed to place themselves under the direction of the officer designated, or to be designated by the governor, as set forth in circular orders from this headquarters, and to aid him in enforcing these regulations and the laws of this State and the United States governing elections.

EDMUND J. DAVIS,
Governor.

Official:

JAMES DAVIDSON,
Adjutant General and Chief of Police of Texas.

Another election circular.

[Circular.]

HEADQUARTERS, STATE OF TEXAS,
OFFICE ADJUTANT GENERAL AND CHIEF OF POLICE,
Austin, Texas, August 1, 1871.

To insure to every citizen in the State of Texas his right to register and vote at the coming election, and in conformity with the provisions of section three of "An act to amend an act entitled 'An act to establish a State police and provide for the regulation of the same,' approved May 2, 1871," the special policemen in each county, who have been or may hereafter be appointed, are hereby called into the service of the State of Texas for twenty-four (24) days, commencing with the opening of the registration and closing with the last day of the election, fixed by the proclamations of his excellency Edmund J. Davis, governor of the State of Texas, under dates of May 24 and July 26, 1871, to be held on the 3d, 4th, 5th, and 6th days of October, 1871.

While in the service of the State, in compliance with this order, the special police force in each county will be under the supervision and orders of an officer of the State police or of a special policeman, to be assigned from this office, and in case no such assignment is made, then they are to be under the supervision and orders of the registrar of the county in which they reside, and will receive and obey his orders.

The police, both State and special, are especially enjoined to see that all voters within the counties wherein they may be detailed for duty have an opportunity to register and vote at said election, free of all hinderance and intimidation. Special policemen will be allowed pay for the time specified, at the rate fixed by law, ($3 per day,) payable out of the county treasury of the counties where they are employed, upon rolls presented to and properly certified by the chief of police.

By order of the governor and commander-in-chief:

JAMES DAVIDSON,
Adjutant General and Chief of Police, State of Texas.

INDEX.

PLEADINGS OF THE PARTIES TO THIS CONTEST.

	Page.
1. Notice of contest	1
2. Answer	3
3. Answer to second notice of contestant	8
4. Notice of attorneys of contestee	8
5. Resolution of the House of Representatives regulating time for taking testimony	9
6. Certificate of election to sitting member	10

TESTIMONY OF CONTESTANT.

Depositions taken in Houston County, Texas:	
1. Deposition of W. V. Tunstall, January 20, 1872	11
2. Deposition of A. T. Monroe	53
3. Deposition of Mrs. Martha G. Tunstall	49
4. Deposition of William M. Waddell	67
Depositions taken in Smith County, Texas, February 19, 1872:	
1. Deposition of M. Wood	24
2. Deposition of John M. Clay	29
3. Deposition of John Flynne	33
4. Deposition of Edwin P. Duke	36
5. Deposition of D. B. Lucky	39
6. Deposition of Columbus Brock	40
7. Deposition of George Douglass	42
8. Deposition of John Donnelly	44
9. Deposition of James M. Brock	46
Depositions taken in Washington, D. C., January 27, 1872:	
1. Deposition of Governor Edmund J. Davis	75

TESTIMONY OF SITTING MEMBER.

Depositions taken in Houston County, Texas, February 7, 1872:	
1. Agreement to take testimony between the parties	114
2. Interrogatories and cross	115
3. Deposition of W. H. Cundiff	117
4. Deposition of L. E. Downes	119
5. Deposition of William Allbright	123
6. Deposition of S. A. Miller	124
7. Deposition of John C. Millar	127
8. Deposition of Clinton Allen	131
9. Deposition of Frank Rainey	135
10. Deposition of A. D. Elam	138
Depositions taken in Rusk County, Texas, February 15, 1872:	
1. Notice to take depositions	84
2. Deposition of W. W. Morris	85

Page.

Depositions taken in Rusk County, Texas, February 15, 1872—Continued:
3. Deposition of W. W. Morris, recalled 89
4. Deposition of Levi Redwine, (colored) 85
5. Deposition of Giles S. Boggess, sr 86
6. Deposition of Giles S. Boggess, jr 88
Depositions taken in Liberty County, Texas, February 16, 1872:
1. Waiver of notice to take depositions by contestant 91
2. Deposition of David Choate 92, 93
3. Subpœna for witnesses in Liberty County 93
4. Deposition of James G. Minter 97
5. Deposition of H. H. Dever 98
6. Deposition of A. N. B. Tompkins 99
7. Deposition of W. W. Perryman 101
8. Deposition of W. G. Nolan 102
Depositions taken in Smith County, Texas, February 23, 1872:
1. Notice to take testimony and waiver 104
2. Deposition of Tasco Shakleford, (colored) 106
3. Deposition of Samuel L. Earle 106
4. Deposition of Julius Clements, (colored) 107
5. Deposition of H. C. Hunt 108
6. Deposition of W. L. T. Burns 108
7. Deposition of Harvey Yarbrough 109
8. Deposition of Tom Graves, (colored) 110
9. Deposition of Albert F. Hunt 110
10. Deposition of Mason Course 111
11. Certificate of clerk district court to genuineness of mayor 113
Depositions taken in Washington, D. C., February 17, 1872:
1. Waiver of notice to take testimony 143
2. Deposition of John Hancock 143
3. Exhibit A, affidavit of F. F. Foscoe 147
4. Exhibit B, affidavit of D. M. Short 148
5. Exhibit Q D, register's oath of office 149
6. Certificate of election to sitting member 150
7. Military order of adjutant general of Texas, calling out special police, August 1, 1871 153
8. Military order of Governor E. J. Davis on assuming command of the police forces of Texas, August 9, 1871 151

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 183.

PURCHASE OF WIARD GUN.

LETTERS

FROM THE

SECRETARY OF THE NAVY AND ADMIRAL PORTER,

ADDRESSED TO

HON. JAMES A. GARFIELD, CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS,

RELATIVE TO

The purchase of the Wiard fifteen-inch gun.

APRIL 10, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

NAVY DEPARTMENT,
Washington, D. C., April 4, 1872.

SIR: I have the honor to recommend that an amendment be inserted in the bill making appropriations for the naval service for the next fiscal year, appropriating forty thousand dollars to enable the Department to purchase two special, large, trial guns, and to conduct a series of experiments for the purpose of determining practically whether the present smooth-bore guns of the Navy can be increased in efficiency and strength by rifling, and by the use of a new projectile, with a view of obtaining more reliable endurance, longer range, better precision, and a greater power of penetrating iron-plating.

A plan for this purpose has been laid before the Department which is claimed to possess such merit that it is deemed desirable to submit it to a full and complete comparative test.

The sum named is, by the terms of the proposal, to cover the entire cost of the two new fifteen-inch guns necessary—one of them to be rifled—together with all the projectiles, powder, iron plates for targets, carriages, and appliances required for the entire test.

The proposed expenditure is much below the usual cost attending similar experiments, and may result in enabling us to improve and utilize such of our present stock of guns as we may wish, at a trifling outlay per gun.

The importance of obtaining for the Navy large rifled guns of great

power and certain endurance, is believed to fully warrant the Department in asking for the appropriation herein recommended.

I am, sir, very respectfully, your obedient servant,

GEO. M. ROBESON,
Secretary of the Navy.

Hon. JAMES A. GARFIELD,
Chairman of the Committee on Appropriations,
House of Representatives.

OFFICE OF THE ADMIRAL,
Washington, D. C., April 5, 1872.

SIR: The attention of officers in the Navy is at present drawn to the plan of Mr. Norman Wiard for converting our heavy smooth-bores into rifled guns, at an expense so moderate, for each gun, that the Navy can be placed in a much more efficient position than it has been for a long time past, and with a future prospect of at least being able to compete with the navies of some of the smaller powers.

Mr. Wiard tells me that he is in hopes that an appropriation of $40,000 will be made to carry on experiments with his 15-inch guns, and I sincerely trust that Congress will grant the means necessary to carry out these most important experiments, which, if they succeed, as I am quite sanguine will be the case, will save millions to the country hereafter. Should the plan prove successful, we shall have what no other nation possesses, a combined rifle and smooth-bore gun.

Should the guns fail in the experiment, we should still derive important information from the trial, and shall not have expended one-tenth of the amount annually appropriated by the English and French governments in trials of ordnance.

Hoping that you will give your hearty support to this important matter, I remain, very respectfully, yours,

DAVID D. PORTER,
Admiral.

Hon. JAMES A. GARFIELD,
Chairman Committee on Appropriations,
United States House of Representatives.

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 184.

FAMINE IN PERSIA.

PETITION

OF

FIFTY-THREE CITIZENS OF BELPRE, OHIO,

ASKING

That Congress provide some method of sending contributions of the benevolent to those suffering by famine in Persia.

APRIL 10, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

To the honorable Congress of the United States assembled:

That a desolating famine exists in many districts of the Persian nation is a well-established fact. Thousands have already died, and thousands more must soon perish if succor is not speedily rendered. This the Persian government cannot, or will not, afford, and the necessity for foreign relief is most urgent. The magnitude of the calamity, the great distance between them and us, and the difficulties of communication are such as to prevent private benevolence, unaided, from effectually reaching them. We therefore respectfully petition you to adopt such measures as you may think best to bring the subject before the public mind, and provide ways and means for collecting and disbursing the charities of the benevolent who may wish to remember them in their adversity.

1. JAMES A. BATES.
2. JOHN A. BROWN.
3. J. M. STONE.
4. B. B. STONE.
5. H. M. YATES.
6. JONATHAN STONE.
7. E. E. CUNNINGHAM.
8. C. A. BROWN.
9. E. S. JOHNSON.
10. W. B. ADAMS.
11. DAN'L JOHNSON.
12. S. DRUSE.
13. WILLIAM THOMAS.
14. J. ALDERMAN.
15. C. GETTEL.
16. W. ARMSTRONG.
17. F. M. PAGE.
18. JAMES HENDERSON.
19. J. L. O'NEAL.
20. JOHN PETERS.
21. JAMES HOWE.
22. JOHN C. O'NEAL.
23. F. MATHERS.
24. P. S. JOHNSON.
25. U. H. DRUSE.
26. W. W. NORTHROP.
27. T. S. HADLEY.
28. H. A. JACKSON.
29. E. H. O'NEAL.
30. R. J. FOSTER.
31. ADAM NORRIS.
32. DAVID OLIVER.
33. JOHN HADLEY.
34. JAMES ARMSTRONG.
35. A. H. BROWNING.
36. C. ALDERMAN.
37. S. C. H. SMITH.
38. I. L. HUTCHISON.
39. M. PATTON.
40. O. D. RATHBONE.
41. M. C. WOODWARD.
42. THOMAS HARKENS.
43. HENRY W. GETTEL.
44. J. W. PERRY.
45. JAMES B. LAKE.
46. D. SMITH.
47. L. W. D. BROOKHARD.
48. LORING E. STONE.
49. B. F. STONE.
50. CHARLES D. COOK.
51. W. B. PORTER.
52. VINTON ALDERMAN.
53. B. F. CULVER.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 185.

DR. JOHN EMILIO HOUARD.

APRIL 11, 1872.—Ordered to be printed and recommitted to the Committee on Foreign Affairs.

Mr. BANKS, from the Committee on Foreign Affairs, reported the following

RESOLUTION:

Whereas Dr. John Emilio Houard has, after one year's imprisonment, and trial by a military court-martial, been convicted of complicity in an insurrection against the Spanish government in the Island of Cuba, and, upon said conviction, has been transported to a penal colony of Spain for the term of eight years, from which conviction, sentence, and punishment he appeals for protection to the Government of the United States. And whereas it appears—1. That said Houard was a native-born citizen of the United States. 2. That he never renounced his allegiance as such citizen; but, on the contrary, has claimed to be, and has been enrolled by the officers of the Government of the United States as a citizen of the United States. 3. That it is not shown by any form of proof that he ever became, by any act, a subject or citizen of the government of Spain. And whereas it further appears that his trial, sentence, and punishment have been in disregard and violation of his undoubted rights as a citizen of the United States, under the Constitution and laws thereof, and the treaty of October 27, 1795, between the United States and Spain: Therefore,

Be it resolved, That, in the judgment of this House, the said John Emilio Houard was, and is, a citizen of the United States by birth and continued and uninterrupted choice, and, as such, is entitled to all and every protection from this Government, and, in the opinion of this House, the President should promptly demand his unconditional release and the restoration of his property, which has been confiscated to the use of the Spanish government.

○

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 186.

LIFE-PRESERVING STATIONS.

[To accompany bill H. R. 461.]

LETTER

FROM

THE SECRETARY OF THE TREASURY,

ADDRESSED TO

HON. SAMUEL SHELLABARGER, CHAIRMAN OF COMMITTEE ON COMMERCE,

RELATIVE TO

The bill for life-preserving stations.

APRIL 12, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT,
February 28, 1872.

SIR: In reply to your communication, dated the 11th of December, 1871, transmitting House bill No. 461, authorizing the construction of life-preserving stations on the coast of Cape Cod, and asking the opinion of this Department as to the necessity and expediency of an appropriation for the purpose named, and the amount deemed sufficient for the purpose contemplated in said bill, I transmit herewith report of Captain John Faunce, United States revenue marine service, who was detailed by Department to inspect the coast of Cape Cod, with a view of more definitely ascertaining the needs of said coast in the respect referred to, from which it will be seen that twenty-one life-saving stations are deemed necessary for the purposes named in the bill above referred to, and that the cost of establishing the same, including buildings, apparatus, and other necessary incidental expenses connected therewith, will reach the sum of $94,500.

I am, very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. SAMUEL SHELLABARGER,
Chairman of Committee on Commerce,
House of Representatives, Washington, D. C.

NEW YORK, *February* 15, 1872.

SIR: I have the honor to inform the Department that I have returned from an examination of the coasts of Cape Cod and Block Island, made under orders of the Department dated January 30 and February 2, and beg leave to submit the following report:

I have carefully examined the line of beach from Race Point to Monomoy, and find it a dangerous one for wrecks, and for the greater part distant from villages, so that shelter and assistance are not at hand. From Race Point to Highland Lights the beach consists of dreary sand-hills, upon which crews of wrecked vessels have perished from cold, after having reached the beach in safety, for want of shelter, the nearest being at Provincetown, full seven miles distant. I therefore recommend that four stations, with suitable boats and apparatus, be established at proper intervals between these points.

The shore from Highland Lights to Chatham is composed of high sand-cliffs, with occasional depressions at intervals varying from two to four miles. The precipitous nature of these cliffs renders them highly dangerous, and crews of vessels wrecked thereon must certainly perish unless assistance is speedily furnished from the shore. I therefore recommend the establisment of twelve stations, with suitable boats and apparatus, between the above-named points.

I also recommend that a suitable life-boat and a house be placed at Barnstable, on the bay side of the cape.

At Manomet Point, a very dangerous locality to the south and east of Plymouth, at which many wrecks occur, a station should also be established.

In accordance with the Department orders I have also visited Block Island and examined the beach. At the north point of the island there is a sand-spit, which makes out about a mile and a half to sea, and the tides render it a dangerous locality. I recommend a station at this point.

At the southwest point, and also on the eastern shore at New Shoreham, many vessels are lost, and a station at each of these points is necessary.

Very respectfully,

JOHN FAUNCE,
Captain U. S. Revenue Marine and Inspector.

Hon. GEO. S. BOUTWELL,
Secretary of the Treasury, Washington, D. C.

NEW YORK, *February* —, 1872.

SIR: I have the honor to acknowledge the receipt of the Department's letter dated February 19th last, instructing me to forward estimates for proposed life-saving stations on Cape Cod and Block Island.

I would state that the stations will need the same articles of apparatus as are intended for the New Jersey and Long Island coasts, and the following is an estimate of amount required for constructing and furnishing with proper apparatus the twenty-one life-saving station-houses, as recommended in my report to the Department dated February 15, 1872:

Cost of building twenty-one stations, at 1,500 each	$31,500
Cost of apparatus for twenty-one stations, at $2,500 per station	52,500
Contingent expenses, painting, freight, &c., at $500 per station	10,500
Total estimate for twenty-one stations	94,500

Respectfully submitted.

JOHN FAUNCE,
Captain U. S. Revenue Marine and Inspector.

○

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 187.

REDUCTION OF POSTAGE.

MEMORIAL

OF

W. C. H. WADDELL,

REPORTED BY

MR. POTTER, FROM THE COMMITTEE ON THE POST-OFFICE AND POST-ROADS,

RELATIVE TO

A reduction of postage.

APRIL 12, 1872.—Ordered to be printed.

VALHALLA, WESTCHESTER CO., N. Y., *April* 8, 1872.

To the honorable the Senate and House of Representatives of the United States:

GENTLEMEN: Few governmental reforms would tend more to the benefit of mankind than the reduction of postage rates to the lowest possible charge.

The appreciation which was awarded to the successful efforts in reducing the rates of internal postage in Great Britain, one of the effects of which was the reduction which has taken place in this country, has induced me to endeavor to cause a similar reduction in the rates of international postage, and a uniformity in its rates throughout the world.

The direct object of this communication, however, is to simplify and make inexpensive the transmission of foreign mails, and to relieve them from a multitude of rates of postage, the present rates imposing many inconveniences on our people.

I beg, therefore, that this communication may be considered and entertained, mainly in connection with treaty arrangements with other commercial nations, in relation to mails, and only relatively on other points and suggestions which may arise in the discussion of this paper, however urgently such other points and advantages may be indicated herein, leaving for subsequent action such relative matters after the main object shall have been accomplished, of causing reciprocal action between this Government and foreign nations in international postage arrangements.

The first postal treaty was made between the United States and Great Britain in 1848. It was constitutionally made on the part of the United

States, "By the President of the United States, by and with the advice and consent of the Senate." That treaty provided that the details of its working might be arranged between the post-office departments of the respective countries; and sundry agreements were made between those departments in conformity therewith.

Since that date not only have new treaties been assumed to have been made on the part of the United States with the government of Great Britain, and also with many other governments, but, as is contended, without the necessary constitutional action on the part of the United States; but the subsequent treaties were assumed to have been made by the Post-Office Department of the United States with foreign governments, (and possibly the lax proceedings in reference thereto have taken place by reason of the imposition of those duties on a strictly home department which ought to have been administered by the department of this government charged with the carrying out of its foreign relations, viz, the Department of State of the United States.)

These (so called) treaties have been made between the Post-Office Department of the United States on the part of this Government and a similar department of other governments, (in some instances,) and sometimes with ministers plenipotentiary or resident from other governments to the United States.

These (so called) treaties have, in some instances, been approved by the President of the United States, but in many cases (since 1848) without such approval; but in no instance (it is believed) has the action of the Senate been had thereon, as, it is contended, should have always constitutionally been the case.

To therefore retrace our steps and get back again on to the constitutional platform, which has been unintentionally departed from by several preceding administrations of the Government, and which has been inadvertently followed by the present administration, it is respectfully submitted that postal treaties should be inaugurated between the United States and all governments with which we have intercourse, and that this should be performed with all the requirements embodied in our Constitution, and in the manner heretofore practiced by our Government in all other matters with foreign governments, viz, through the Department of State of the United States, and by the President of the United States, by and with the advice and consent of the Senate.

No tax imposed on the citizen should be as low as postage, thereby increasing intercourse between the people, spreading ideas of liberty and brotherly love, and binding together the whole family of man.

The undersigned would, if legitimate to his main object at this time, urge that the rate of postage at present might be fixed at one-fifth of a dime (two cents) on a letter weighing not over one-half of an ounce, and printed matter at correspondingly low rates, not only to all parts of the United States, but also to any part of the world, in the hope that such satisfactory results might be derived therefrom that, in time, it might be reduced to the nominal charge of one cent; and the undersigned entertains the idea that these low rates, in time, would produce a larger revenue than the rates which are now in existence, provided the mode of transporting mails from the United States (and the same mode, with some variations, might be adopted within the United States) as hereinafter recommended should be adopted; but as this latter suggestion does not directly apply to my present main object, it is only relatively mentioned as one of the results which may ultimately arise.

Having long entertained some novel ideas in reference to international postage arrangements, the undersigned takes the liberty at the close of

this letter of appending some articles for a form of treaty, which, while it practically sets forth the *modus operandi* of accomplishing the object in the treaty arrangements, will readily meet the views of all countries with whom we have intercourse, and will at the same time conform to the popular sentiment of the United States.

The novelty of the proposed idea is that no cause whatever exists that the same rate of postage shall inure from the United States to another government, which might be established to this country from such government.

Each government might, from time to time, regulate the rate of postage from its own boundary or shores to another country, in conformity with its own views of advantage to its own peculiar interests.

The postage on a half-ounce letter, for instance, from the United States to Great Britain might be one cent, while the postage on a similar letter to the United States from Great Britain might be six cents.

And here, it is respectfully submitted, you will perceive that the whole difficulty of arranging the same on a uniform rate both ways vanishes at once, for no reason whatever exists that the rate both ways should be the same.

The difficulty of inducing other governments to conform to the obsolete idea that the same rate must inure both ways has employed the best talent of the country for the past twenty-five years, and is now, by the undersigned, sought to be abandoned, as an object not worth seeking, as a preliminary measure, for the low rates at which we could post our letters outward (as will be hereinafter shown) will induce other governments to reduce their rates to this country, possibly to the same low standard, and possibly to the adoption of our rates in all cases.

Another radical defect also exists in the transmission of mails; (the reform of which the undersigned believes will meet with much opposition from interested parties, who desire that subsidies shall be imposed on postal revenues for their emolument;) for the undersigned conceives that all our mails from this country should be transported to foreign governments at comparatively nominal rates to those which we now incur, and that this desirable point could perhaps be best attained by availing ourselves of the instrumentality of some one or more of our great express companies at a small advance (suppose it were even double the present rates of express companies for the best description of express freight) over those charges which these companies now exact for the best descriptions of merchandise. Of course such express companies should be under suitable bonds and regulations as to transport and delivery.

No question, it is submitted, can arise as to the power of Congress to regulate matters of that kind, where proprietors of vessels might interfere, when the Constitution expressly provides that Congress shall have power "to regulate commerce with foreign nations;" and therefore (laying aside the opposition which the attempt to abolish subsidies would produce) no difficulty could arise in requiring all vessels to take the freight of mails at (at least) as low rates as they may exact for the best description of other freight, under the penalty of an imposition of increased tonnage duties upon all vessels which might be disposed to place themselves (the owners) in an antagonistic position to these reasonable requirements of Government.

Having thus attempted to lay before you some suggestions in relation to a reform which has as I believe great merits, allow me in conclusion to propose that some gentleman, able to carry out these views, b e at once dispatched to the several governments with which we have the

most intercourse, (as a matter of policy,) to suggest the proposed action of this Government, and its proposed submission of such a form of treaty for their action and approval.

Such a person perfectly acquainted with the subject-matter of his mission, able to meet any objection which might be set up against these reform measures, should be clothed with embassadorial character, so that he alone might treat thereon independently; thus not only relieving ministers-resident of the annoyance of possessing themselves of the knowledge of these details, but also as a more sure method of bringing the several governments to the adoption of the same measure.

An embassador treating with one government on a special matter would not only be more cognizant with, but also more effective in, carrying out the same arrangements with another government included in his mission, than any resident minister could possibly be on a special subject committed to him by correspondence.

I should think that such an embassador could complete his mission in Europe within six months, and return with the knowledge that the several governments were disposed to enter into such treaties.

Then, if the Senate were so disposed, treaties (no doubt similar in all cases) might be ratified, after being made by the Secretary of State, he being duly authorized, on the part of the United States, and the ministers-resident at Washington, they being severally so instructed by their respective governments.

Congress would then, by law, it is respectfully submitted, provide for the carrying of our mails to foreign countries in the mode proposed, and such other provisions as the new system might require to suitably enable the Executive to complete all the details.

Appending hereto such articles as I think would be applicable to such a proposed treaty, and submitting the whole matter to your favorable consideration, I have the honor to be yours, very respectfully,

WM. COVENTRY H. WADDELL.

ARTICLE I.—All letters and printed matter posted in one of their respective countries to be delivered in the other, which shall have been stamped "all paid" by the authority of the government transmitting the same, shall thereafter, until delivery, be carried, without further charge, throughout the country receiving such mail-matter.

ARTICLE II.—Upon all mail-matter posted in one country and delivered to the postal authorities of the other, which shall have been stamped as "not paid" in the country transmitting the same, there shall be collected *double* the amount of postage which would have been charged in the country transmitting the same; one-half of which shall be retained by the government collecting the same, and the remaining one-half shall be passed to the credit of the government transmitting such mail-matter.

ARTICLE III.—All closed mails transmitted by one government through the territories of the other shall be carried across the country receiving the same, with the local mails of the latter government, without charge therefor. An officer of the government transmitting closed mails shall be permitted to accompany such closed mails in their tran-

sit;* but at the cost and expense of the government sending such officer.

ARTICLE IV.—All mails transmitted by either of the high contracting parties to the territory of the other shall be at the cost of the party transmitting the same, and shall be delivered, immediately on their arrival in such territory, to a consular agent of the government transmitting the same; which consular agent shall forthwith place such mail-matter into the nearest post-office, for distribution.

ARTICLE V.—All matters of detail may be arranged between the post-office departments of the high contracting parties, which do not conflict with the provisions of this treaty, and which do bear a relation to the provisions hereof.

ARTICLE VI.—The present treaty is concluded for an indefinite period; but may be modified, at any time, by a treaty between the high contracting parties. It cannot be annulled by either, except after one year's notice given to the other to that effect.

ARTICLE VII.—The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate, and by &c., &c., &c.; and the ratification shall be exchanged at the City of Washington, &c., &c., &c.

---

* This clause is inserted because it has been insisted on by some governments with which we have postal arrangements, and there appears to be no objectionable feature therein.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 188.

DR. J. E. HOUARD.

LETTER

FROM

THE SECRETARY OF STATE,

ADDRESSED TO

HON. N. P. BANKS, CHAIRMAN COMMITTEE ON FOREIGN AFFAIRS,

INCLOSING

A telegram from the chargé d'affaires at Madrid, relating to the claim of Dr. Houard for protection as an American citizen.

APRIL 12, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

DEPARTMENT OF STATE,
Washington, April 11, 1872.

SIR: I have the honor to inclose herewith, for your information and that of the committee over which you preside, a copy of a telegram just received from the *chargé d'affaires* of the United States, at Madrid, relative to the case of Dr. Houard.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
Chairman of the Committee on Foreign Affairs.

Inclosure.

Copy of a telegram from A. A. Adee, April 10, 1872.

[Telegram.]

FISH, *Secretary of State, Washington:*

Urgent.—Captain general telegraphs minister of state, saying that Houard's American citizenship was not alleged in consul's first communication; that Houard's father had renounced foreign nationality in accepting post of commissary of police at Cienfuegos, and that Houard had no foreign papers, but was registered as a Spaniard. Copy of all proceedings to be sent to Madrid next mail.

ADEE, *Chargé.*

MADRID, *April* 10.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 189.

TESTIMONIALS TO DIPLOMATIC AND CONSULAR OFFICERS.

LETTER

FROM

THE SECRETARY OF STATE,

ADDRESSED TO HON. N. P. BANKS, CHAIRMAN COMMITTEE ON FOREIGN AFFAIRS,

IN RELATION TO

The acceptance of testimonials from the Emperor of Germany by diplomatic and consular officers of the United States, for services rendered German subjects during the late war between France and Germany.

APRIL 12, 1872.—Referred to the Committee on Foreign Affairs and ordered to be printed.

DEPARTMENT OF STATE,
Washington, April 11, 1872.

SIR: Information has been received that the Emperor of Germany is desirous of testifying his recognition of the value of the services rendered to German subjects during the recent war by the diplomatic and some of the consular officers of the United States in France. As those officers cannot accept any such testimonials without the consent of Congress, I have the honor to submit the subject for the consideration of the committee of which you are chairman, and to inclose a draught of a joint resolution expressing such consent.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. N. P. BANKS,
Chairman of the Committee on Foreign Affairs,
House of Representatives.

P. S.—A letter to the same effect has been addressed to the Committee on Foreign Relations of the Senate.

JOINT RESOLUTION.

Resolved, &c., That, in consideration of the services rendered to the German government by the diplomatic and consular officers of the United States in France during the recent war between Germany and France, the minister of the United States in Paris, the secretary of the United States legation in Paris, the consul general of the United States in Paris, and such consuls of the United States in France as acted on behalf of the German government during the said war, are hereby authorized to receive any testimonials that may be tendered them by His Majesty the Emperor of Germany.

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 190.

AMERICAN SEAMEN.

RESOLUTION

OF THE

LEGISLATURE OF MASSACHUSETTS,

RELATIVE TO

American seamen.

APRIL 15, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Whereas the provisions of the present maritime law, which make the payment of wages dependent upon the earning of freight, are anomalous, unjust, and unreasonable:

Resolved, That our Senators and Representatives in Congress be requested to use their influence to procure the passage of a law which shall give the mariner his wages when faithfully earned, and the right to their speedy recovery, by enacting that, in suits for the same, no appeal shall be taken from the district court, unless the amount recovered shall exceed the sum of three hundred dollars.

SENATE, *March* 28, 1872.

Passed. Sent down for concurrence.

S. N. GIFFORD, *Clerk.*

HOUSE OF REPRESENTATIVES, *March* 30, 1872.

Passed in concurrence.

W. S. ROBINSON, *Clerk.*

SECRETARY'S DEPARTMENT,
Boston, April 11, 1872.

I certify the foregoing to be a true copy.

OLIVER WARNER,
Secretary of the Commonwealth.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 191.

MANUFACTURE AND ISSUE OF ARMS.

STATEMENT

FROM

THE ORDNANCE DEPARTMENT

RELATING TO

The manufacture and issue of arms for the militia.

APRIL 15, 1872.—Referred to the Committee on the Militia and ordered to be printed.

No. 1.

Arming and equipping the militia under the law of 1808.

States and Territories.	Money due to or overdrawn by the States and Territories.		Annual money quota of each State and Territory.	Arms issued since 1850, (in round numbers.)
	Due.	Overdrawn.		
Alabama	$41 69		$4,380 29	2,546
Arkansas	4,109 22		2,737 68	1,224
California		$191,927 60	2,737 68	11,430
Connecticut	4,091 55		3,285 21	1,802
Delaware	467 18		1,642 61	1,684
Florida	837 06		1,642 61	945
Georgia	21,478 45		4,927 82	3,172
Illinois		4,768 71	8,760 58	8,726
Indiana	25,888 20		7,117 97	5,684
Iowa	6,028 26		4,380 29	5,557
Kansas		51,127 57	1,642 61	8,902
Kentucky	33,744 51		6,022 89	3,803
Louisiana	2,871 81		3,832 75	4,143
Maine	8 82		3,832 75	3,060
Maryland	1,517 73		3,832 75	2,983
Massachusetts		3,362 86	6,570 44	4,748
Michigan	17,169 89		4,380 29	3,308
Minnesota	540 19		2,190 14	4,942
Mississippi	5,774 38		3,832 75	1,995
Missouri	61,458 12		6,022 89	75,765
Nebraska	2,469 78		1,642 61	2,900
Nevada	19,155 18		1,642 61	
New Hampshire		15,902 66	2,737 68	6,943
New Jersey	1,966 79		3,832 75	3,487
New York		57,447 34	18,068 69	29,632
North Carolina	7,230 17		4,927 82	3,435
Ohio		144,568 98	11,498 26	31,362
Oregon	14 21		1,642 61	3,485
Pennsylvania	21,812 97		14,235 94	14,212
Rhode Island		26,544 69	2,190 14	7,042
South Carolina		109,197 89	3,285 21	11,455
Tennessee	4,271 88		5,475 36	7,871

Arming and equipping the militia under the law of 1808—Continued.

States and Territories.	Money due to or overdrawn by the States and Territories.		Annual money quota of each State and Territory.	Arms issued since 1850, (in round numbers.)
	Due.	Overdrawn.		
Texas	$4,965 54		$3,285 21	931
Vermont		$611,558 53	2,737 68	20,292
Virginia	604 60		5,475 36	10,250
West Virginia	22,977 84		2,737 68	25
Wisconsin	6,399 67		4,380 29	3,227
Arizona		10,436 94	1,642 61	829
Colorado		14,745 82	1,642 61	500
Dakota		29,796 66	1,642 61	1,035
Idaho	14,048 36		1,642 61	
New Mexico		26,031 82	1,642 61	5,822
Montana		56,919 92	1,642 61	2,580
Utah	55,321 18		1,642 61	
Washington	19,219 18		1,642 61	2,433
Wyoming	2,629 13		1,642 61	100
District of Columbia		1,215 12	1,642 61	2,524

Explanation of amount overdrawn by the States:

The issue to Dakota was made under special act of Congress, approved April 7, 1866.

The issues to the other States were made in 1863, 1864, and the early part of 1865, by special order of the Secretary of War, except in the case of California, when General Halleck, on July 9, 1863, as General-in-Chief, directed the issue to be made.

No. 2.

Arming and equipping the militia, under the acts of April 23, 1808, and March 3, 1855.

States and Territories.	Due States and Territories July 1, 1871.	Overdrawn by States and Territories July 1, 1871.	Arms and stores issued and charged to States and Territories between January 1, 1861, and April 9, 1865.	Annual quota of each State and Territory under the act of 1808.
Maine	$1,924 02		$0,219 25	$3,832 75
New Hampshire		$15,902 66	154,696 00	2,737 68
Vermont		611,558 53	642,608 37	2,737 68
Massachusetts		3,362 86	25,210 00	6,570 44
Connecticut	4,099 05		3,438 00	3,285 21
Rhode Island		26,544 69	74,598 76	2,190 14
New York		57,447 34	107,244 00	18,068 69
New Jersey	45,806 79			3,832 75
Pennsylvania	21,812 97		1,327 00	14,235 94
Delaware	467 18		20,431 00	1,642 61
Maryland	1,517 73		1,188 00	3,832 75
Virginia	11,499 18			5,475 36
West Virginia	22,977 84			2,737 68
North Carolina	21,546 17		5,896 00	4,927 82
South Carolina		109,197 89		3,285 21
Georgia	21,478 45			4,927 82
Florida	837 01			1,642 61
Alabama	19,764 51			4,380 29
Mississppi	5,774 38			3,832 75
Louisiana	2,871 81			3,832 75
Texas	4,965 54			3,285 21
Tennessee	4,271 88		8,803 00	5,475 36
Kentucky	33,744 51		1,139 00	6,022 89
Arkansas	4,109 22			2,737 68
Ohio		144,568 98	381,870 00	11,498 26
Indiana	25,888 20		16,910 13	7,117 97
Illinois		69,768 71	163,674 40	8,760 58
Missouri	61,458 12		5,330 00	6,022 89
Iowa	29,163 07		933 00	4,380 29
Minnesota	3,139 19		7,595 00	2,190 14
Wisconsin	6,399 67		10,586 73	4,380 29
Michigan	40,809 99		7,294 00	4,380 29
Nevada	19,155 18			1,642 61
Oregon	2,462 61		14,416 57	1,642 61
California		191,927 60	245,693 10	2,737 68
Kansas		51,127 57	85,349 00	1,642 61
Nebraska	2,469 78		8,487 00	1,642 61
Arizona		10,436 94	1,982 50	1,642 61
Colorado		14,745 82		1,642 61
Dakota		29,796 66	10,022 34	1,642 61
Idaho	14,048 36			1,642 61
New Mexico		26,031 82	45,251 00	1,642 61
Montana		56,919 92		1,642 61
Utah	55,321 18			1,642 61
Washington	19,219 18			1,642 61
Wyoming	2,629 13			1,642 61
District of Columbia	1,236 08		1,979 00	1,642 61

No. 3.

Statement of muskets, rifles, and carbines issued to the States and Territories, under the law of April 23, 1808, for arming and equipping the militia, from 1808 to April 15, 1872.

States and Territories.	Number issued from 1808 to December 31, 1864.	Number issued from January 1, 1865, to April 15, 1872.	Total issued since 1808.
Alabama	8,763	738	9,501
Arkansas	1,861	467	2,328
Connecticut	10,163	879	11,042
California	11,455	.....	11,455
Delaware	5,083	.....	5,083
Florida	1,501	260	1,761
Georgia	16,758	20	16,778
Indiana	11,268	4,922	16,190
Illinois	13,267	.....	13,267
Iowa	2,317	1,240	3,557
Kentucky	21,373	1,391	22,764
Kansas	8,160	550	8,710
Louisiana	5,902	2,500	8,402
Maine	11,680	600	12,280
Massachusetts	28,695	.....	28,695
Maryland	16,472	500	16,972
Missouri	80,012	.....	80,012
Michigan	4,548	1,000	5,548
Mississippi	5,635	110	5,745
Minnesota	2,075	1,200	3,275
New Hampshire	12,983	2,600	15,583
New York	52,857	12,000	64,857
New Jersey	18,200	1,601	19,801
North Carolina	20,666	595	21,261
Nebraska	2,640	260	2,900
Nevada	.....	.....	.....
Ohio	62,467	31	62,498
Oregon	762	151	913
Pennsylvania	60,201	4,500	64,701
Rhode Island	4,043	1,000	5,043
South Carolina	15,292	10,000	25,292
Tennessee	23,369	2,025	25,394
Texas	1,724	520	2,244
Virginia	32,331	970	33,301
Vermont	30,079	.....	30,079
West Virginia	.....	25	25
Wisconsin	2,189	1,535	3,724
Arizona	105	724	829
Colorado	.....	1,000	1,000
Dakota	350	1,035	1,385
Idaho	.....	.....	.....
Montana	.....	2,580	2,580
New Mexico	5,776	.....	5,776
Utah	.....	.....	.....
Washington	2,459	.....	2,459
Wyoming	.....	100	100
District of Columbia	4,759	817	5,576
Total issued	620,240	60,446	680,686

No. 4.

Statement of expenditures for permanent improvements at Springfield Armory, from its establishment to the 29th of February, 1872.

Purchase of land, including improvements thereon at the time of purchase		$81,006 09
Permanent improvements, viz:		
Erection of buildings	$1,096,390 98	
New machinery	1,202,783 24	
Shop fixtures	162,077 05	
Grading grounds, making roads and walks, planting trees, &c	176,113 04	
Mill-dams, canals, sewers, &c	325,197 70	
Iron fence	50,327 78	
Federal Square fence	9,589 92	
		3,022,479 71
Total for permanent improvements		3,103,485 80

Statement of the cost of Springfield rifle-muskets, from 1861 *to* 1865, *inclusive, made at the Springfield Armory.*

The following are the years embraced in this statement:	Number of arms turned over in each year.	Price, each.	Total cost of arms turned over each year.	Amount charged the arm each year for repairs and depreciation of tools, machinery, fixtures, and buildings, &c.
Year ending June 30—				
1861	13,802	$13.1164	$181,049 67	$37,492 37
1862	102,410	11.81624	1,210,101 70	303,686 13
1863	217,784	10.696418	2,329,598 09	360,357 92
1864	276,200	10.69019	2,952,630 88	491,573 79
1865	195,341	14.1205	2,758,312 97	571,459 20
Total	805,537	11.70+	9,431,693 31	1,764,569 41

From the above statements it appears that during the rebellion, or from 1861 to 1865, inclusive, there were made, at the Springfield armory, 805,537 rifle-muskets, at a cost of $11 70 each.

This sum included the cost of all the labor, materials, direct supervision, inspection, condemnation of defective parts, 6 per cent. on plant, and also included the depreciation in value from use of tools, fixtures, machinery, buildings, &c.

This *depreciation* was about $1,764,569 41, or more than $2 per musket.

As the Government does not insure against fire or accidents, it does what is equivalent, protects the property of the armory by the employment of a large force of watchmen and a steam fire-engine, the cost of maintaining which is included in the $11 70.

The total expenditures at the Springfield Armory from its establishment to the 1st of March, 1872, amounted to $3,103,485 80 for lands, buildings, iron and wooden fences, mill-dams, canals, sewers, shop-fixtures, and new machinery. The amount charged to the depreciation of these items, as stated above, from 1861 to 1865, was $1,764,569 41, or more than half of the original value.

The cost of contract arms, as given in the accompanying list, shows that they cost an average of $20 each, to which is to be added $1 each for inspection and proof, making the cost of contract arms to the United States at $21 each, or about $9 each more than the cost of those made at the armory.

As the United States manufactured 805,537 muskets during the rebellion, the saving of $9 on each makes a saving to the United States of $7,249,833 during the years 1861–'65, or a sum more than twice the entire cost of the Springfield Armory since its establishment.

No. 5.

Memorandum of contracts made from 1861 *to* 1865, *for Springfield rifled muskets, and the deliveries under the same.*

Date of contract.	Contractor's name.	Kind of arms and quantity contracted for.	Price.	Number delivered.
		Springfield rifled muskets.		
Dec. 28, 1861	W. A. Wheeler	50, 000	$20 00	.....
Dec. 26, 1861	Sarson & Roberts	25, 000	20 00	5, 140
Dec. 26, 1861	A. M. Burt	50, 000	20 00	11, 495
Dec. 26, 1861	J. T. Hodge	50, 000	20 00	10, 500
Dec. 13, 1861	W. F. Brooks	10, 000	20 00	.....
Dec. 12, 1861	F. L. Bodine	25, 000	20 00	.....
Dec. 24, 1861	J. B. Butterfield	50, 000	20 00	.....
Dec. 24, 1861	A. K. Eaton	50, 000	20 00	.....
Dec. 26, 1861	Eagle Manufacturing Company	25, 000	20 00	20, 000
April 1, 1864	Norwich Arms Company	10, 000	18 00	10, 000
Oct. 18, 1864	.....do	15, 000	19 00	15, 000
Aug. 31, 1861	Union Arms Company	20, 000	20 00	.....
Oct. 11, 1861	.....do	20, 000	20 00	.....
Nov. 14, 1861	.....do	25, 000	20 00	.....
Nov. 21, 1861	John Rice	36, 000	20 00	.....
Dec. 24, 1861	C. B. Hoard	50, 000	20 00	1, 500
Dec. 1, 1863	.....do	20, 000	19 00	11, 300
Jan. 10, 1862	Green Kendrick	25, 000	20 00	.....
July 13, 1861	Alfred Jenks & Son	25, 000	20 00	25, 000
Oct. 7, 1861	.....do	25, 000	25 00	19, 000
July 7, 1863	.....do	50, 000	20 00	.....
Dec. 15, 1863	.....do	50, 000	20 00	48, 000
Feb. 1, 1865	.....do	6, 000	19 00	6, 000
Jan. 7, 1862	James Millholland	50, 000	20 00	5, 502
Jan. 7, 1862	William Mason	50, 000	20 00	30, 000
July 13, 1861	Providence Tool Company	25, 000	20 00	38, 000
Nov. 26, 1861	.....do	25, 000	20 00	
May 1, 1864	.....do	32, 000	19 00	32, 000
July 11, 1861 / Oct. 7, 1861 \	Lamson, Goodnow & Yale	50, 000	20 00	50, 000
Jan. 7, 1862	Amoskeag Manufacturing Company	10, 000	20 00	10, 001
Nov. 5, 1863	.....do	15, 000	19 00	15, 000
Jan. 6, 1865	.....do	2, 000	19 00	2, 000
Sept. 28, 1863	Parker, Snow & Company	15, 000	19 00	15, 000
Oct. 11, 1861 / Nov. 26, 1861 \	C. D. Schubarth	50, 000	20 00	9, 500
Dec. 7, 1861	William Muir & Company	30, 000	20 00	30, 000
Dec. 26, 1861	J. D. Mowry	30, 000	20 00	10, 000
Nov. 27, 1863	.....do	2, 000	20 00	2, 000
April 6, 1864	.....do	10, 000	18 00	10, 000
Dec. 24, 1861	Starr Arms Company	50, 000	20 00	.....
Dec. 24, 1861	Eli Whitney	40, 000	20 00	.....
Oct. 17, 1863	.....do	15, 000	19 00	15, 001
Sept. 9, 1862	Savage Arms Company	25, 000	18 00	13, 500
Feb. 25, 1864	.....do	12, 000	18 00	12, 000
Nov. 5, 1863	W. S. Roberts	15, 000	19 00	.....
Nov. 6, 1861	W. W. Welch	18, 000	20 00	16, 000
Jan. 12, 1864	.....do	2, 500	18 00	1, 000
Aug. 20, 1862	E. Remington & Son	40, 000	16 00	.....
Dec. 14, 1863	.....do	40, 000	18 00	40, 000
June 10, 1863	Edward Robinson	20, 000	20 00	12, 000
Dec. 29, 1863	.....do	5, 000	18 00	4, 000
Feb. 23, 1864	.....do	15, 000	18 00	8, 000
Oct. 4, 1864	.....do	7, 000	18 00	6, 000
July 5, 1861	Colts' Patent Fire-Arms Company	25, 000	20 00	25, 000
June 5, 1863	.....do	50, 000	20 00	12, 500
Mar. 19, 1864	.....do	37, 500	20 00	37, 500
	Total	1, 525, 000		643, 439

Total Springfield rifled muskets contracted for 1, 525, 000
Total Springfield rifled muskets delivered 643, 439

To the above price of each arm one dollar must be added for cost of inspection, proof, &c.

The cost of altering arms to breech-loaders in years 1869 and 1870 was $8 28 each. This was not merely the cost of making the muzzle-loader into a breech-loader, but included the cost of adding thereto all the modern improvements, and making it equal to the best breech-loading arm now made, viz, a new and shorter barrel of reduced caliber, a new and lighter ramrod, ramrod-stops, and a new and improved sight for long ranges.

The cost cannot be obtained by dividing the *total cost*, if by that is meant the total expenditures at the armory during the year, because the operations at Springfield Armory during the year were not confined to the manufacture of complete arms. The accompanying statement shows about 100,000 arms repaired, and immense quantities of spare parts made for repairs of arms in hands of troops, &c. And in addition to the items reported on the statement a vast quantity of work was in various stages of manufacture, and consequently not reported as manufactured. The money value of this class of work is very large:

Letter from the Secretary of War, transmitting statement of expenditures at the national armory at Springfield, and of the arms and repairs to arms made at said armory, during the year ending June 30, 1870.—*January* 12, 1871.—*Ordered to be printed.*

WAR DEPARTMENT,
Washington City, January 9, 1871.

The Secretary of War has the honor to submit to the House of Representatives, in accordance with the act of Congress approved April 2, 1794, the accompanying statement of expenditures at the national armory at Springfield, and of the arms and repairs to arms made at said armory, during the year ending June 30, 1870.

WM. W. BELKNAP,
Secretary of War.

The SPEAKER OF THE
HOUSE OF REPRESENTATIVES.

Statement of expenditures at the Springfield armory, and of the arms, components of arms, and appendages fabricated, altered, and repaired thereat during the year ended June 30, 1870, *in pursuance of the act of Congress of April* 2, 1794.

EXPENDITURES.

Appropriations.

National armories	$454,014 86
Repairs, &c., at Springfield armory	24,688 95
Ordnance, ordnance stores, and supplies	138,059 79
Ordnance service	10,613 93
Total	627,377 53

WORK DONE.

500	breech-loading rifle-muskets, model of 1866, altered from muzzle-loaders.
45,419	breech-loading rifle-muskets, model of 1868, altered from muzzle-loaders.
310	cadet-muskets, model of 1869, manufactured.
3	Remington muskets, (breech-loader,) manufactured.
500	Remington muskets, (breech-loader,) shortened.
11	rifle-muskets, model of 1868, converted to Remingtons.
20	wooden guns, for bayonet fencing, fabricated.
1	breech-loading carbine, Remington model, manufactured.
4	breech-loading carbines, Springfield, manufactured.

2 Remington pistols, altered to metallic cartridge.
2 Colt's pistols, altered to metallic cartridge.
39,837 screw-drivers, altered for breech-loading muskets.
29,911 tompions, altered for musket, caliber .50.
40 bayonet-sockets, for bayonet fencing.

COMPONENTS OF ARMS FABRICATED.

Spencer carbines.

1,424 butt-stocks.
466 tip-stocks.
801 main-springs.
2,014 butt-plate screws.
593 primer-cover screws.
10,065 lever-spring screws.
2,017 lever key-stop pins.
1,007 primer shut-off screws.
842 slide-screws.
1,102 lever-catch springs.
1,102 lever-catch spring pins.
3,294 tang-screws.
2,726 tumblers and 2,304 butt-plates.
1,259 band-springs.
709 cartridge-guide springs.
125 band-springs.
2,346 swivel-bar plate screws.
50 silver sight-pins.
782 magazine inner tubes.
1,215 magazine-springs.
202 swivels.
857 sight-leaf screws.
500 button-screws.
1,500 shell-drawer spring screws.
1,500 percussion-slide screws.
520 swivel-screws.
1,000 rear-sight leaf screws.

Spencer rifles.

62 middle bands.
61 lower bands.
149 tip-stocks.

Breech-loading rifle-muskets, model of 1866.

879 stocks.
1,056 hinge screw-nuts.
2,357 firing-pins.
2,524 firing-pin nuts.

Breech-loading rifle-muskets, model of 1868.

876 ramrod-stops.
167 stocks.
300 rear-sight bases.
300 rear-sight base leaves.
961 rear-sight base leaf screws.
300 rear-sight base leaf slides.
300 rear-sight springs.
18 rear sights.
553 front sights.
315 breech-screws.
806 ramrods.
10 receivers.
33 breech-blocks.
11,863 breech-block cap-screws.
34 hinge-pins.
60 cam-latches.
11,109 cam-latch springs.
15 thumb-pieces.
12,464 firing-pins.
11,756 firing-pin screws.
12,106 firing-pin springs.
4,703 extractors.
13,206 ejector-springs.
60 spindles and 60 studs.

REPAIRED.

36,266 Enfield rifle-muskets.
31,300 rifle-muskets, first quality.
28,240 rifle-muskets, second quality.
100 cadet-muskets, Maynard primer.
890 cavalry sabers.
301 artillery sabers.
230 non-commissioned officers' swords.
2,122 non-commis'd officers' sword-blades.
283 musicians' swords.
1,410 wipers.
3,318 screw-drivers.
310 spring-vises.
282 ball-screws.

In addition to the foregoing, a great deal of work has been done on machinery and tools for the fabrication of rifle-muskets, model of 1868, and for fabrication of Remington muskets for the Navy.

A. B. DYER,
Chief of Ordnance

ORDNANCE OFFICE, *January* 6, 1871.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 192.

IMPROVEMENT OF CHANNEL BETWEEN STATEN ISLAND AND NEW JERSEY.

JOINT RESOLUTION

OF THE

LEGISLATURE OF NEW JERSEY,

RESPECTING

The improvement of the channel between Staten Island and New Jersey.

APRIL 15, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Whereas there exists in the waters between Staten Island and New Jersey certain obstructions to navigation, which makes the same dangerous and affects the commerce passing through those waters: Therefore,

Be it resolved by the senate and general assembly of the State of New Jersey, That our members of Congress, both in the Senate and House of Representatives, be and are hereby requested to procure, if possible, such appropriation by Congress as may be necessary to improve the navigation of said waters, and especially to remove such obstructions as may exist in the channel at the point known as the Corner Stake and Shooter's Island.

And be it resolved, That the governor be requested to furnish a copy of the foregoing preamble and resolution, without delay, to the Senators and Representatives in Congress from the State of New Jersey.

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 193.

IMPROVEMENT OF THE OHIO RIVER.

JOINT RESOLUTIONS

OF

THE LEGISLATURE OF WEST VIRGINIA,

RELATIVE TO

An appropriation for the improvement of the Ohio River.

APRIL 15, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Whereas the improvement of the navigation of the Ohio River is of such national importance as to require an immediate appropriation by the Congress of the United States of a sum of money adequate to that end: Therefore,

Resolved by the legislature of West Virginia, That our Senators be instructed, and our Representatives in Congress requested, to advocate the passage of a bill for that purpose.

Resolved, That copies of the foregoing preamble and resolution be communicated by the governor of this State to the President of the Senate of the United States and to the Speaker of the House of Representatives, and that the clerk of the house of delegates certify like copies to each of our Senators and Representatives in Congress.

A true copy from the rolls.

Teste:

I. B. PEYTON,
Clerk House Delegates and Keeper of the Rolls.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 194.

MARTHA L. HAMBLETON.

[To accompany bill H. R. 2126.]

PAPERS

REPORTED BY

MR. FRYE,

RELATIVE TO

The claim of Martha L. Hambleton.

APRIL 15, 1872.—Referred to the Committee of Claims and ordered to be printed.

TREASURY DEPARTMENT, *June* 5, 1866.

SIR: I have considered your petition filed on the 30th of May last, in which you state that a certain quantity of cotton which was shipped from New Orleans, Louisiana, by O. H. Burbridge, supervising special agent, to Simeon Draper, United States cotton agent at New York, and by him sold, and the proceeds placed in the Treasury of the United States, has been claimed by Messrs. Obenchain & Fulton; but that in truth and fact the said cotton was purchased by them with money rightfully belonging to your wife, of which you affirm said Obenchain & Fulton have conspired to defraud her. You therefore request that the proceeds of the cotton in question may be held in trust, either by an administrator appointed for that purpose in this district, or by a receiver, until the courts shall decide who are the proper owners of the fund.

In view of the conflicting claims which have been made for the cotton and its proceeds, although I must decline to pay the proceeds into the hands of an administrator or receiver, yet to afford to any and all of the parties every proper facility in my power for sustaining their claims respectively, I will hold the fund in question for the benefit of whomsoever shall be found to be entitled thereto by the final decree or judgment of any court having rightful jurisdiction of the subject, and will pay the same in accordance with the final order or decision of such court.

Respectfully,

H. MCCULLOCH,
Secretary of the Treasury.

Mr. JAMES P. HAMBLETON,
Atlanta, Georgia.

TREASURY DEPARTMENT, *August* 21, 1868.

SIR: I transmit, herewith inclosed, a letter and brief handed to me by Mr. T. J. D. Fuller, acting as counsel for Mrs. M. L. Hambleton, and request your consideration of the points raised, and your opinion thereon.

The sum of $16,559 91, being the net proceeds of 259 bales of cotton, was covered into the Treasury as proceeds of captured property, in ac-

cordance with the joint resolution of March 30, 1868. This cotton was taken on the plantation of David Hamiter, of Arkansas, because his name was found on the rebel records as a subscriber to the rebel produce loan. It was subsequently claimed by Obenchain & Fulton, as having been legally purchased from Hamiter. Fulton was the cashier of the Chattanooga Bank, and claims the cotton as property in which the funds of the bank were invested. Obenchain married a sister of Mrs. Hambleton, and was appointed administrator of the estate of her father, Benjamin Easley, sr., and makes the same statement as Fulton. Mrs. Hambleton presents evidence that the cotton was bought with money belonging to her father's estate, deposited with the bank of Chattanooga. Hamiter claims to recover the proceeds on the ground of not having received the agreed compensation for the property.

The question of rightful ownership was submitted to the Solicitor of the Treasury, and in accordance with his report I addressed a letter, June 5, 1866, to James P. Hambleton, husband of Mrs. Martha L. Hambleton, in which I stated that the United States laid no further claim to the proceeds of the cotton in question, and that I would hold them in trust, to be paid over to either of the claimants who should establish his title in any court of justice in which they should all agree to litigate. The parties never came to any agreement, and the money was covered into the Treasury under the provisions of the joint resolution of March 30, 1868, together with the proceeds of captured and abandoned property. A copy of my letter to Mr. Hambleton is inclosed herewith.

The question is whether the money, having been declared a year previously not to be money belonging to the United States, has been legally covered into the Treasury; and, if not, whether it can be again placed at my disposal, to be handed over to any court, according to the terms of my letter of June 5, 1866.

If, in your opinion, this sum cannot be uncovered from the fund of captured and abandoned property, could a like sum be disposed of under the provisions of section 12 of the appropriation act of July 23, 1866, (14 Statutes at Large, page 208,) setting apart moneys for the payment of claims against sums erroneously received and covered into the Treasury.

Respectfully,

H. McCULLOCH,
Secretary of the Treasury.

R. W. TAYLER, Esq.,
First Comptroller of the Treasury.

STATE OF GEORGIA, *Dade County, ss:*

As the ordinary of Dade County, State of Georgia, I am authorized by the code of the said State to make the following summary of facts, based upon the records of said court of ordinary, and from my own personal knowledge. It is proper, however, to state that this summary of facts is furnished at the request of Mrs. Martha Louisa Hambleton, who informs this court that she desires said summary of official and personal facts, for the purpose of establishing her ownership to certain moneys at the time held by the Government of the United States:

Benjamin Easley, of said county, died in the month of December, 1861, intestate. His wife died about ten years previously, and he never married afterwards.

At the time of said Easley's decease he was possessed of the largest estate in said county, and one of the largest and most valuable properties in the western part of said State. Said estate consisted of large tracts of valuable lands, divided only by the railroad running from Chattanooga, Tennessee, to Meridian, Mississippi, via Gadsen, Alabama, and known as the "Will's Valley," or "Northeast and Southwestern Railroad." He also owned many slaves, live stock of every kind and in great quantities, bank and railroad stocks, notes and money. The indebtedness of said estate was merely nominal.

The heirs-at-law of said Benjamin Easley were Martha Louisa, who had intermarried with James P. Hambleton, of Atlanta, and State aforesaid; Charles B., unmarried; Caroline Matilda, who had intermarried with Alexander T. Obenchain; and Benjamin, a minor, aged sixteen at the decease of his father.

The said Obenchain became administrator of said estate in 1862; and one William D. Fulton was the principal surety on said administration bond, and was also appointed guardian of the said Benjamin Easley, the minor.

The said Charles B. was killed in the seven days' battles around Richmond, in the summer of 1862; and Benjamin, the minor, was killed in the battle of Cedar Run, in the valley of the Shenandoah, in 1864. The body of Charles B. was brought home and buried in the family graveyard. The body of Benjamin has never been removed from the battlefield. I was a captain in the same regiment, Twenty-first Georgia infantry, with both Benjamin and Charles B. They both died intestate and without children, as they were unmarried.

When the said Obenchain became administrator of said estate, the county of Dade, lying on the border of Tennessee, was regarded as much exposed to the raids of the United States cavalry. Consequently, when said letters of administration were granted, the county was stripped of every arms-bearing man; and a majority of the older citizens had migrated to the interior of the State of Georgia. Such was the disorganized condition of affairs, and scarcity of citizens in the said county of Dade, at the time of the issuance of said letters of administration to said Obenchain, that the execution of the laws of the State was almost impossible. As a consequence, the bond given by the administrator aforesaid, Obenchain, was almost worthless. Then followed a false appraisement of said estate, and other acts by said administrator, unknown to the laws of Georgia.

At the instance of the aforesaid Mrs. Martha L. Hambleton, the said Obenchain was removed from the office of said administrator, for nine several reasons stated in said ruling, on the 23d day of November, 1867. A temporary administrator was thereupon appointed, whose duty it was to ascertain if there was any property justly chargeable to or belonging to said estate within the limits of said State. Said temporary administrator, finding neither property or any claim thereto that could be made available to the said estate, the said letters temporary, in accordance with the statutes of said State, became null and void thirty days from the date of issuance. No person has since sought to obtain from this court permanent letters of administration, nor could this court grant permanent letters of administration in the interest or in the name of said estate, until convinced that such administration would be within the jurisdiction of the courts of this Commonwealth. There is no evidence before this court that there is any property whatever belonging to or claimed by said estate within the limits as aforesaid.

In the month of December, 1868, Caroline Matilda, the wife of said

Obenchain, died in Memphis, Tennessee, and her remains were brought to this county, and interred in the family burial-ground at the old Easley place. She left no child to survive her.

One William D. Fulton was the guardian of Benjamin, the deceased minor, but the records of this court do not show what disposition was made of the interests of said Benjamin by his said guardian.

There is no record evidence before this court that the said Mrs. Martha L. Hambleton has ever received any part or portion of her said father's estate.

I certify that the foregoing statement of the management of the Easley estate is sustained by the records of this court, and that the statement is true in every particular; and that whatever therein is not established by the records of this court are facts within my personal knowledge. I also certify that, from my long and intimate acquaintance with the family of Benjamin Easley, deceased, Mrs. Martha L. Hambleton is the only surviving heir of said Easley.

Given under my hand and official signature and seal of office, this 22d day of April, A. D. 1870.

[SEAL.]

JOEL SUTTON,
Ordinary.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 195.

SIGNAL SERVICE.

JOINT RESOLUTIONS

OF

THE LEGISLATURE OF NEW JERSEY,

RECOMMENDING

An additional appropriation to the signal service.

APRIL 15, 1872.—Referred to the Committee on Appropriations and ordered to be printed.

Whereas the Signal Service Department of the United States Army has proved itself of great value to the commercial interests of the country; and whereas by increasing its stations it can be utilized to the great benefit of the agricultural interest, which interest is the wealth of the nation:

1. *Be it resolved by the senate and general assembly of the State of New Jersey*, That our Senators and Representatives in Congress be urged to secure such further appropriation as will enable the War Department to extend its signal service system, so as to secure its advantages to the farming interests of the United States.

2. *And be it resolved*, That the governor be requested to furnish a copy of the foregoing preamble and resolution immediately to our Senators and Representatives in Congress.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 196.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

MEMORIAL

OF THE

SAINT LOUIS BOARD OF TRADE,

CONCERNING

Improvement of the Mississippi River.

APRIL 15, 1872.—Referred to the Committee on Commerce and ordered to be printed.

To the honorable Speaker House of Representatives, Washington, D. C.:

SIR: The citizens of Saint Louis, through its board of trade, respectfully but earnestly invite your attention to the following facts:

The city of Saint Louis is a large city, having a population of three hundred and fifty thousand. It is a commercial city, being situated upon the west bank of the Mississippi River, about midway between its source and its mouth. As a commercial city, a very large portion of its inhabitants are engaged in the business of receiving the products of the Mississippi Valley by river-boats from the hands of the producers, and transporting them in various directions by river-boats to points of consumption.

During what is termed the period of high water, or when there is more than 6 feet of water on the worst bars between this point and Cairo, the large and economical boats, built for the lower river trade, and owned and operated by Saint Louis people, can and do transport the products of the Mississippi Valley to points of consumption in large quantities, and at much lower rates of freight than can be done in periods of low water, or when there is less than 6 feet of water on said bars.

That your honorable body may more clearly perceive the force of this statement, your petitioners respectfully set forth the following facts:

The period of river navigation for 1871 began February 1, and closed December 5, about ten months.

During the first five months there was more than 6 feet of water on the worst bars between here and Cairo, and the steamboats carried away from this port 482,870 tons of freight. During the last five months there was less than 6 feet of water on the worst bars, between this port and Cairo, and the steamers carried away but 293,628 tons of freight; yet

had there been a good stage of water the last five months of the year, the outward carrying-trade of the steamers should have been a third larger than their carrying-trade during the first five months of the year, by reason of heavy harvests and great activity of trade with the cotton States during the fall months of the year. This can be made more clear to your honorable body by stating that during the first half of the same year there was shipped by railroad from here 376,234 tons of freight, and during the last half of the same year 583,648 tons. There it is shown that the railways gained during the last six months of the year, and the river lost in carrying-trade, and the cost of this charge to the producers and consumers, may be approximately stated as follows:

DURING HIGH WATER.

482,870 tons, at an average of $4 per ton	$1,931,480 00
Loss reported by sixteen insurance companies for same time	120,992 40
Total cost	2,052,472 40

DURING LOW WATER.

293,628 tons, at an average of $10 per ton	$2,936,280 00
Loss reported by sixteen insurance companies for same time	272,887 59
Total cost	3,209,167 59

Absolute loss to producers and consumers by river business alone, occasioned by obstructions in river and channel, is $1,156,695 19. But this is not the entire amount of loss by reason of low water; as before shown, a large part of the carrying-trade was driven off the river to the costlier mode of railway transit, and though it costs railroad companies no more to carry freight when rivers are in low stage than when they are in high stage of water, yet the following figures which are collected from the commercial reports of this city show that great difference is made, and that the amount of this difference comes directly out of the pockets of both producers and consumers.

There was carried by rail out of Saint Louis during high water, 376,234 tons of freight, at an average of $12 per ton, $4,514,808.

There was carried by rail out of Saint Louis during low water, 583,648 tons of freight, at an average of $15 per ton, $8,754,720.

Had there been, say, 6 feet of water in the river-channel on the worst bars between this point and Cairo, our railway thoroughfares would not have been overpressed with business from this point as they were; and consequently would not have advanced their rates from $12 to $15 per ton. Had the advance not been made, there would have been saved to the producers and consumers $1,750,944 in the last six months' business of the railways out of this city, even allowing that the railways would have carried out as much as they did. But it is reasonable to presume that had there been more than 6 feet of water on said bars, between this point and Cairo, a large part of this freight would have taken to the river at the low rate of $4 per ton, a difference of transportation cost of $11 per ton. We will suppose that the river had been in a good stage during the last half of the year, and that its steamers and barges had transacted their proportionate amount of business. Taking the first six months as a standard, the showing would have been about as follows:

SHIPPED FROM SAINT LOUIS.

January to July, by river:		
482,870 tons, cost	$1,931,480 00	
Insurance loss	120,992 40	
		$2,052,472 40
July to December, by river:		
500,000 tons, cost	2,000,000 00	
Insurance loss	150,000 00	
		2,150,000 00
Total		4,202,472 40
January to July, by rail:		
376,234 tons, cost	4,514,808 00	
July to December, by rail:		
400,000 tons, cost	4,800,000 00	
Total		9,314,808 00
Grand total		13,517,280 40
What same did cost:		
By river	5,261,641 99	
By rail	13,269,528 00	
		18,531,169 99
		5,013,889 59

The saving, then, to producers and consumers in the carrying expense from this port alone, as between high water and low water, amounts to $5,013,889 59 in absolute cash. In this estimate the great wear and tear to steamers, by reason of low water, is not taken into account.

Your petitioners believe that if your honorable body will order a survey of the channel to be made between this point and Cairo, it will become evident that the improvements can be made, involving only a small expenditure of money, which will give to the commerce of this great valley the advantage of deep water in the channel of the river at all seasons of the year.

Your petitioners, therefore, respectfully urge and pray that said survey be ordered without delay, to the end that said obstructions to the free and economical navigation of the Mississippi River be speedily removed by the National Government.

Adopted March 19, 1872.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 197.

TARIFF ON WOOL.

RESOLUTION

OF

THE LEGISLATURE OF OHIO,

OPPOSING

The reduction of the tariff on imported wool.

APRIL 22, 1872.—Referred to the Committee of Ways and Means and ordered to be printed.

Whereas a strong effort is being made by the manufacturing interest of the United States to influence Congress to greatly reduce the duty on foreign wools; and whereas the State of Ohio is largely interested in the raising of sheep and wool: Therefore,

Resolved by the general assembly of the State of Ohio, That our Senators and Representatives in Congress of the United States be requested to use their influence to defeat said proposed reduction, or any reduction whatever, of duty on foreign wools.

Resolved, That the governor be requested to forward a copy of the above preamble and resolution to each of our Senators and Representatives in Congress.

Adopted April 17, 1872.

N. H. VAN VORHES,
Speaker of the House of Representatives.
JACOB MUELLER,
President of the Senate.

THE STATE OF OHIO, *Office of the Secretary of State:*

I, Isaac R. Sherwood, secretary of the State of Ohio, do hereby certify that the foregoing is a true copy of a joint resolution therein named, passed by the general assembly of the State of Ohio on the 17th day of April, A. D. 1872, taken from the original rolls on file in this office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of this office, at Columbus, the 17th day of April, A. D. 1872.

ISAAC R. SHERWOOD,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 198.

SHIP-CANAL AROUND THE FALLS OF NIAGARA.

RESOLUTION

OF

THE LEGISLATURE OF OHIO,

RELATIVE TO

A ship-canal around the Falls of Niagara.

APRIL 22, 1872.—Referred to the Committee on Commerce and ordered to be printed.

Whereas a commercial convention of business and other representative men, from different portions of the country, both East and West, was held at Detroit, in the State of Michigan, on the 13th day of December last, to take into consideration the practicability of reducing the rates and cost of transportation between the agricultural States of the West and the eastern and European markets, by opening up continuous steam navigation, by way of the northern lakes and river Saint Lawrence, to the Atlantic Ocean; and whereas this convention adopted resolutions requesting Congress to assist in that enterprise, by making an appropriation adequate to the construction of a ship-canal around the Falls of Niagara, on the American side thereof; and whereas this proposition of opening up new and competing lines of transit between the West and East, through those great water-channels of the continent, thereby reducing very materially the cost of moving the vast agricultural and other products of the West to the markets of the world, has received the direct sanction of the legislatures of most of the Western States and Territories, and more especially of Illinois, Iowa, Kansas, Nebraska, Dakota, Minnesota, Wisconsin, and Michigan, as also of several of the New England States, thereby most incontestably proving that the people of the whole country are making earnest and efficient efforts to secure greater and cheaper means and facilities of transportation between the two sections of our country; and whereas the people of Ohio have ever taken a deep and abiding interest in all questions and enterprises the object of which have been to open up, extend, and perfect the means and facilities of inter-communication between the different sections and portions of our country, thereby materially reducing the cost of transit on her immense and varied industry: Therefore, be it

Resolved by the general assembly of the State of Ohio, That our Senators and Representatives in Congress be, and they are hereby, requested to give their earnest attention to this subject, and if in their judgment it should appear to be feasible and to subserve the purpose

sought to be secured, to wit, cheap transportation, to urge upon Congress that such aid be granted to the enterprise by the General Government as shall secure the speedy construction of the aforesaid ship-canal.

Resolved, That duly authenticated copies of this memorial and resolutions be transmitted by the secretary of state to each of our Senators and Representatives in Congress, also to the President of the Senate and Speaker of the House of Representatives, with request that they lay them before their respective Houses.

Adopted April 17, 1872.

N. H. VAN VORHES,
Speaker of the House of Representatives.
JACOB MUELLER,
President of the Senate.

THE STATE OF OHIO, *Office of the Secretary of State:*

I, Isaac R. Sherwood, secretary of state of the State of Ohio, do hereby certify that the foregoing is a true copy of a joint resolution therein named, passed by the general assembly of the State of Ohio on the 17th day of April, A. D. 1872, taken from the original rolls on file in this office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of this office, at Columbus, the 17th day of April, A. D. 1872.

ISAAC R. SHERWOOD,
Secretary of State.

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 199.

UNSOLD GOVERNMENT LANDS IN MISSOURI.

MEMORIAL

OF THE

LEGISLATURE OF MISSOURI,

ASKING

Congress to grant to the State of Missouri the Government lands remaining unsold in said State, the proceeds to be applied to the public-school fund of the State.

APRIL 22, 1872.—Referred to the Committee on the Public Lands and ordered to be printed.

The general assembly of the State of Missouri respectfully presents the following memorial to the Congress of the United States, and their prayer that Congress will grant to the State the Government lands yet remaining unsold within the State, the proceeds of the sale thereof to be appropriated by the legislature to the cause of education, and to become a part of the public-school fund of the State, in accordance with the fifth section of the ninth article of the constitution of the State:

The general assembly respectfully represents:

That the lands yet remaining unsold are refused lands and are of little value to the General Government, and not paying much more than the expenses of survey and sale; that the State of Missouri has been faithful to the cause of the Union throughout the late rebellion; that in maintaining her position in the Union, the State has sustained great losses and made great and unparalleled sacrifices; that, unlike other loyal States, considerable portions of Missouri were desolated by war—houses burned, farms destroyed, stock driven off, and the country impoverished; that Missouri, though a slave State, and at the beginning of the late rebellion held in servitude a population of about 114,000 persons, amounting in value, under the then existing laws, to some $40,000,000, a large part of which belonged to loyal men, was the first State to declare direct and immediate emancipation; that, although the declared policy of President Lincoln was compensation to loyal slaveholders, as will more fully appear by the following resolution, drawn up by him and sent to your honorable body in a communication dated the 6th day of March, 1862, and which was adopted by the House of Representatives by the following vote: ayes, 97; noes, 36; and which passed the Senate by the following vote: ayes, 32; noes, 10: "*Resolved*, That the United States ought to co-operate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to

be used by such State, in its discretion, to compensate for the inconveniences, public and private, produced by such change of system;" Missouri has never asked remuneration to her citizens for the losses thus sustained. That emancipation has thrown upon the State a large number of destitute children, sunk in the very depths of poverty and ignorance, without the means of support, who must be cared for by the State, and rescued from their present condition, and, through the advantages of education, made intelligent citizens, who, by honest industry, may contribute to the wealth and power of the State and of the nation; that the true policy is now to educate this people, to elevate them, and thus make them useful members of the commonwealth; that although thousands of young men of the State joined the rebellion, Missouri nevertheless furnished her full quota of troops, amounting to nearly one hundred and twenty-five thousand men, (including the colored soldiers,) to the cause of the Government, and that this quota was not based upon the actual population remaining at home, but upon the entire population of the State; that while the General Government made reimbursement for State expenditures, there were millions of dollars raised by counties and towns not taken into the account, and which falls as a loss upon the people; that Missouri is largely in debt, struggling to maintain her position and her credit, and to bring herself up to the standard of those States which have not suffered from the presence of slavery and the devastations of war; that the State of Missouri has, by her new constitution, established as the fundamental policy of the Commonwealth an enlarged and liberal scheme of education for her whole population, embracing free schools for all the children of the State between the ages of five and twenty-one years; and also a university upon an enlarged plan, with various departments, and has, through the normal department of that institution, and other constitutional requirements, inseparably connected the common school and university system of the State; that Missouri is the first State of the Union which has by the fundamental law made a certain amount of knowledge a requirement for voting, it being required by the constitution that after the 1st day of January, 1876, that voters must be able to read and write. Education is thus made to enter into the very polity of the State. Knowledge and education are recognized as the bulwarks of the commonwealth. That in the impoverished and burdened condition of the State, she feels difficulty in carrying out her educational plans, so much in harmony with the wise and beneficial policy of the General Government. Therefore, the general assembly of the State of Missouri appeals to Congress in this time of need for the friendly encouragement of the parent Government. Missouri asks a pittance in these refuse lands, which will not be felt or missed in the wealth of the nation, which will, nevertheless, be of great and lasting benefit in developing the moral, intellectual, and material wealth of the State, adding thereby to the national power and resources, and strengthening the cords of affection and loyalty, which will bind the State forever to our glorious Union. The general assembly of Missouri, relying upon the justness of the case herein presented, and the generosity of the General Government, respectfully ask that the request of this memorial be granted, and, as in duty bound, the people will ever pray.

Resolved, That the Secretary of State cause to be forwarded, at the earliest day, to our Senators and Representatives in Congress, copies of the foreging memorial, and that they are hereby requested to present the same and obtain legislative action thereon at the earliest day practicable.

Approved March 28, 1872.

O

42D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 200.

FOREIGN-BUILT VESSELS.

MEMORIAL

OF THE

PHILADELPHIA BOARD OF TRADE,

PROTESTING

Against any enactment permitting the unrestricted purchase of foreign-built vessels, as against the interests of American shipping and commerce.

APRIL 23, 1872.—Referred to the Committee on Commerce and ordered to be printed.

The memorial of the Philadelphia Board of Trade to the honorable the Senate and House of Representatives of the United States in Congress assembled, respectfully showeth:

That the Philadelphia Board of Trade is profoundly impressed with the necessity of a revival of American tonnage interests. It earnestly desires that measures should be adopted by Congress which will make American shipping again conspicuous in the ocean carrying trade of the world.

Aware that a strong effort is being made to permit the unrestricted purchase of foreign-built ships by American citizens, upon the plausible ground that our shipping interests may thus be most speedily relieved, the Philadelphia Board of Trade emphatically protests against the liberty so to purchase, and for the following reasons:

1. Because, as a branch of domestic industry, ship-building is as worthy of Government protection as any other that is so fostered. The transfer of ship-building to other countries, and its consequent neglect and abandonment in our own, can hardly be regarded with more favor than the surrender of our iron, coal, and manufacturing interests to foreign nations.

2. In a patriotic point of view we hold it to be the duty of the Government so to encourage our own ship-builders as to insure our possession of naval armaments in time of war. Skilled artisans are a potent element of national defense. It should be our aim to excel in every department of civilized industry, and so fully occupy each and all of them that our strength shall be perfect at all points.

3. Because in the navigation laws of Great Britain, which for several centuries protected and developed her ship-building interests, as also in her modern subsidies to steamship lines, we discern the benefit of direct government aid in creating and fostering a national mercantile marine.

4. We further oppose the bestowal of an unrestricted liberty to purchase foreign-built ships because we believe the plan proposed by Secretary Boutwell, of granting a subsidy of $13 per ton for a period of years, will promote the growth of American shipping without prejudice to other interests.

5. It is claimed that our ships are built of better iron and are capable of greater endurance than a majority of the same class constructed abroad. Possessed of first-class material, we need only encourage its use in American marine construction to give us once more a controlling position on the seas.

6. The Philadelphia Board of Trade commends the return to American registry, at the will of the owner, of all tonnage alienated during the war to foreign flags, as a large measure of relief to our shipping, and as free from the error of building up one interest by breaking down another. A concession of this kind is all that should be required of the Government.

The foregoing is submitted in behalf and by instruction of the executive council of the Philadelphia Board of Trade, at its meeting on April 15, 1872.

JOHN WELSH, *President.*

GEO. L. BUZBY, *Secretary.*

BSB Bayerische StaatsBibliothek
MDZ Münchener DigitalisierungsZentrum Digitale Bibliothek

House documents

Bd.: [267,i.] 1871, Vol. 3 = Congress 42, Sess. 2

Washington, DC 1871
Am.b. 3040-267,i,3
urn:nbn:de:bvb:12-bsb11037614-1